

~~CONFIDENTIAL~~

Approved For Release 2005/11/28 : CIA-RDP90-01089R000100100002-0

21 December 1976

Confirmation 11)
Executive Registry
76-5910
OLC#76-3759

MEMORANDUM FOR: [REDACTED] SA/DCI

25X1

FROM : B. C. Evans, Executive Secretary

SUBJECT : Briefing Format for DCI-Designee

1. Attached is a book containing the topics any new DCI should be briefed on, together with an indication of principal briefers and the time required. As you know, Mr. Bush found it useful to first obtain an overall briefing on the Agency followed by some time spent with each Deputy Director. He then received in depth briefings on the work of various offices.

2. The first order of business will be to prepare the DCI-Designee for confirmation hearings. The Legislative Counsel, with an input from the DDCI and the General Counsel, will want to take this on. ✓

3. Immediately at hand for the DCI-Designee's early reading are (a) the DCI/DDCI senior staff and CIA functional summary, and (b) the Intelligence Community functional briefing book, both of which were developed for the Carter transition staff. I have included bios on Mr. Knoche and [REDACTED] in both books. He will also have to acquaint himself with the briefings and material provided the Secretary of State-Designee.

25X1

4. Experience shows that a new DCI is the victim of his own calendar growing out of external pressures to get up to speed on various topics for meetings he will be called upon to attend. Consequently, the "scheduler" for briefings will be choosing material from the attached book at the convenience of the DCI-Designee's calendar and dependent upon that which has been covered by the contingencies of the early days of his tenure.

5. I have not included Mr. Bush in the briefing process, but he will certainly want to be involved in the first few sessions.

[REDACTED]
B. C. EVANS

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Attachment

cc: DDCI
D/DCI/IC

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Introductory Briefings for DCI-Designee
(Approximately 1 hour ea.)

<u>Subject</u>	<u>Briefer</u>
Overview of Agency Organization, to Include EAG	E. H. Knoche
The Intelligence Community and the Role of the DCI	<div data-bbox="1031 682 1356 724" style="border: 1px solid black; width: 200px; height: 20px; display: inline-block;"></div> Deputy to the DCI for the Intelligence Community 25X1
Preparations for Confirmation	George L. Cary, Jr. Legislative Counsel
Legal Authorities Relating to the DCI	Anthony Lapham * General Counsel
The National Intelligence Officers: Their Functions, Including Their Role in the Production of National Intelligence Estimates	Richard Lehman * Deputy to the DCI for National Intelligence
Organization of the DCI's Office and ES Functions	Benjamin C. Evans Executive Secretary
The Directorate of Intelligence, Organization and Functions (Including Intelligence Support to the White House and the NSC)	Sayre Stevens * Deputy Director for Intelligence
The Directorate of Operations, Organiza- tion and Function (Including OAG)	William Wells * Deputy Director for Operations
The Directorate of Science and Technology, Organization and Function (Including Special Projects and the NRO)	Leslie Dirks * Deputy Director for Science and Technology
The Directorate of Administration, Organization and Function (Including Special Proprieties)	John F. Blake * Deputy Director for Administration

<u>Subject</u>	<u>Briefer</u>
Agency Congressional Relations	George L. Cary, Jr. Legislative Counsel
Agency Relations with the Media; Agency Information Policy	Andrew Falkiewicz Assistant to the DCI
CIA Programs, Budget and Manpower (Including relations with OMB)	DDCI and James Taylor Comptroller
Functions of the Inspector General and Current Cases of Major Importance	John Waller Inspector General

* Detailed briefing topics attached.

91.11.28.75

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LEGISLATIVE COUNSEL

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EXECUTIVE SECRETARIAT
Routing Slip

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Remarks: **The DCI, DDCI, and D/DCI/IC have approved the attached approach and memo. The order in which briefers are listed is not necessarily the way it will happen.**

[Signature]
Executive Secretary

23 December 1976
Date

3637 (7-76)

25X1

CARTER STANDS FIRM, SUPPORTS SORENSEN AS DIRECTOR OF C.I.A.

CALLS ATTACKS 'GROUNDLESS'

But Sentors' Opposition to the Nominee Mounts Over His Use of Classified Materials

Special to The New York Times

PLAINS, Ga., Jan. 16—Despite mounting opposition in Washington, President-elect Carter stood firm today on his choice of Theodore C. Sorensen to become Director of Central Intelligence.

In a terse statement released by his local office, Mr. Carter reaffirmed his nomination of the former confidant of President Kennedy, who has come under fire in the last few days for his personal use of classified materials taken from White House files.

Meanwhile, in Washington, many of the senators who will vote on Mr. Sorensen's nomination voiced varying degrees of opposition to his confirmation. The senators, interviewed by telephone, are members of the Select Committee on Intelligence, which opens public hearings tomorrow on the nomination.

7 Senators Opposed

The New York Times reached 10 of the 15 committee members and found seven opposed to the nomination. Two more were quoted by others as being in opposition. One was undecided and two favored the appointment.

Opposition on the committee was voiced by Republican Senators Barry Goldwater of Arizona, Jake Garn of Utah, Strom Thurmond of South Carolina and Howard H. Baker Jr. of Tennessee. Senator Robert T. Stafford, a Republican, of Vermont said he was unsure how he would vote because of "questions raised."

Democratic members of the committee who indicated their opposition to Mr. Sorensen included Joseph R. Biden Jr. of Delaware, Robert B. Morgan of North Carolina and Walter Huddleston of Kentucky. Adlai Stevenson 3d of Illinois and Daniel K. Inouye of Hawaii, the committee chairman, were reported by other senators to be also opposed.

Unusual Amount of Opposition

In view of Mr. Carter's vigorous statement supporting Mr. Sorensen, the strength of the opposition against the nomination is unusual among members of the committee.

Some members have expressed opposition based on Mr. Sorensen's own statements, given in an affidavit for the trial of Daniel Ellsberg, who was involved in the unauthorized release of the Pentagon papers. In this, Mr. Sorensen said he had used classified White House material in writing his book about the Kennedy Administration and then enjoyed a tax deduction based on his donation of the documents to the National Archives.

Committee sources, however, said opposition also stemmed from his inexperience in foreign intelligence; his role in helping Senator Edward M. Kennedy, Democrat of Massachusetts, explain the Chappaquiddick incident; his status of conscientious objector in avoiding military service, and the role of his law firm, which represents several multinational corporations and such foreign govern-

Continued on Page 15, Column 1

ments as Zaire, Sierra Leone and Iran, where the C.I.A. has influence.

Mr. Carter issued a statement today saying:

"There have been personal attacks on Mr. Sorensen's judgment and loyalty that are groundless and unfair. His actions concerning confidential documents as described in his affidavit are consistent with what I understand to have been common practice in Administrations of both parties.

"Ted Sorensen did not seek this position. I have asked Mr. Sorensen to serve because of my complete confidence in his ability, and have continued to express my support to members of the intelligence committee.

"It would be most unfortunate if Mr. Sorensen's frank statement of his role and activities, which are widely known to have taken place, deprive the administration and the country of his talents and services."

The differences between the senators and Mr. Carter reflect the first substantive clash between him and Congress, a confrontation the President-elect has tried to avoid with a sustained courtship of the legislators both in person and over the telephone.

Mr. Carter, apparently expecting that reporters waiting for him outside the Plains Baptist Church today would ask him about Mr. Sorensen, carefully avoided them when he emerged from the services. In so doing, he also eschewed his usual handshaking session with a crowd of waiting tourists.

Waves and Smiles

Some of them seemed upset but he ignored their calls and, after a few waves and smiles in their direction, he ducked into a waiting car and was driven quickly with his wife, Rosalynn, and daughter, Amy, back to their home a few blocks away. His aides said he would spend the afternoon working on his inaugural address.

Nevertheless, in the late afternoon, his mimeographed statement of support for Mr. Sorensen was released, with the notation that further questions could be directed to Jody Powell, his press secretary. Mr. Powell, however, was unavailable.

The objections to Mr. Sorensen, a former adviser and speech writer for President Kennedy, center on his handling of classified material when he was in the White House.

Questions about his financial history have also been raised, according to Senator Baker, who remarked that, as of last Thursday, he had not yet submitted a financial statement or records, as is customary for nominees facing confirmation hearings.

Officials close to Mr. Sorensen said that he planned to make a strong opening statement to the committee tomorrow, defending his actions in the Kennedy Administration and later.

A Carter transition aide, Richard Neustadt, was installed at the Central Intelligence Agency today to handle calls on the Sorensen nomination. "because of press interest," he said.

Reports Bipartisan Opposition

Senator Baker emphasized that "there is bipartisan opposition" to the nomination in the 15-member committee. He said he had made a head count that convinced him the committee would not support the appointment and would block its movement to the full Senate. He declined to disclose the breakdown of votes as he perceived them.

One Democratic member said his conversations with colleagues convinced him that at least five Democratic members opposed the nomination.

Only Mark O. Hatfield, an Oregon Republican, said he had "no reservations" about Mr. Sorensen, adding that he had talked to the nominee about some of the disputed issues. Clifford P. Case, New Jersey Republican, said he would make up his mind only after hearing Mr. Sorensen testify.

Senator Baker acknowledged that he called President-elect Carter Friday, apparently to urge, along with Senator Inouye, that the nomination be withdrawn. Mr. Inouye appears to have conferred by telephone with Mr. Carter again yesterday, and with Mr. Sorensen.

Determined to Go Ahead

Until then, there was strong doubt among many committee members that the hearing would open on schedule at 10 A.M. tomorrow, and some wondered whether it would be called off altogether. But Mr. Carter and Mr. Sorensen appar-

CODENIKEN

Sorensen Gives Up Effort To Become CIA Director

By Henry S. Bradsher
Washington Star Staff Writer

Bowing to a storm of criticism, Theodore C. Sorensen today withdrew as President-elect Jimmy Carter's nominee to head the U.S. intelligence community.

His announcement stunned the the Senate Select Committee on Intelligence, which was beginning confirmation hearings on his nomination, and followed his reading of a strong rebuttal of attacks mounted on his appointment over the past three days.

Sorensen looked up from his prepared statement and told the panel, "It is now clear that a substantial portion of the United States Senate and the intelligence community is not yet ready to accept as director of central intelligence an outsider who believes as I believe" in objective intelligence analysis and a dedication to peace.

"It is equally clear that to continue fighting for this post, which would be my natural inclination, would only handicap the new administration if I am rejected or handicap my effectiveness as director if I am confirmed," Sorensen said.

"It is, therefore, with deep regret that I am asking Gov. Carter to withdraw my designation as director of central intelligence. My regret stems not from my failure to get this post, but from my concern for the future of our country."

IT WAS NOT immediately clear whether Sorensen had discussed his withdrawal with Carter, but a top Carter adviser earlier today hinted such a move was being considered.

Hamilton Jordan, designated last week to be assistant to the President, said in a television interview Sorensen's withdrawal was "a possibility." Jordan added, "That is not planned, and I don't think he will."

Controversy over the Sorensen nomination began to build last Friday with release of an affidavit from Sorensen in which he admitted taking classified documents when he left the White House in 1964 after serving as a close aide to President John F. Kennedy.

The affidavit was made by Sorensen in 1972 and submitted by the defense at the trial of Daniel Ellsberg, who was charged with leaking the secret Pentagon Papers.

Sorensen said he used the documents to write a book on the Kennedy

by Senate Majority Leader ROBERT Byrd, D-W.Va., that Sorensen's chances of confirmation were "questionable," Carter issued a strong statement yesterday expressing "complete confidence" in Sorensen and characterizing attacks on him as "groundless and unfair."

Sorensen's withdrawal clearly took the 15-member committee by surprise. Groping for words, Sen. Birch Bayh said he was "distressed at the turn of events."

In his statement defending himself, Sorensen declared, "I do not intend to be intimidated by those who wish to strike at me, or through me at Gov. Carter, by personal attacks on my integrity and probity, grossly distorting the facts and maliciously twisting my words."

Replying to criticisms that he had improperly used secret government material, Sorensen said he "drew upon classified materials in backgrounding the press only when I was specifically directed to do so by the President, who clearly had such authority."

Commenting on his use of secret material to write his book, Sorensen said everybody did it — even Gerald Ford had acknowledged using top secret documents to write a book on the Warren Commission.

On criticism that he avoided service in the Korean War as a conscientious objector, Sorensen said that shortly after registering for the draft in 1946, he requested military service in a non-combatant capacity. "My action was largely symbolic, inasmuch as our country was not then at war or expected to go to war."

HIS PREFERENCE for personal non-violence never inhibited his advice to Kennedy, Sorensen declared, and as director of central intelligence, he would be prepared to carry out "every lawful order of the President."

On other charges, Sorensen said that many senior government officials had been lawyers for foreign governments and that he never knew anything about assassination plots while working in the White House.

As for his qualifications, Sorensen said, he was chosen by Carter "as someone sufficiently in his personal trust and confidence to bring him the hard unvarnished facts, and to reject any improper orders, whatever their source." "only someone from inside the military or intelligence establishment" could handle the job.

Of his pacifist views, Sorensen said, "I do favor a foreign policy that possible the risk of of his apparatus with like their

defense of veral discussions by telephone with his nominee.

Carter's statement backing the Sorensen nomination consisted of three paragraphs:

"There have been personal attacks on Mr. Sorensen's judgment and loyalty that are groundless and unfair. His actions concerning confidential documents as described in his affidavit are consistent with what I understand to have been common practice in administrations of both parties.

"Ted Sorensen did not seek this position. I have asked Mr. Sorensen to serve because of my complete confidence in his ability and have continued to express my support to members of the intelligence committee.

"It would be most unfortunate if Mr. Sorensen's frank statement of his role and activities, which are widely known to have taken place, deprived the administration and the country of his talents and services."

According to Jordan, Carter was not aware that Sorensen had removed classified documents from the White House when he decided to choose Sorensen for the CIA post. However, even if the president-elect had known, it would not have changed his decision to nominate Sorensen, Jordan said.

IN HIS AFFIDAVIT about the classified documents, Sorensen reportedly said that he took a tax deduction upon returning the material to the government. This was apparently not a violation of any law at the time.

He claimed a deduction of \$231,923 on his 1968, 1969 and 1970 tax returns and was finally allowed to deduct \$89,923.

While there has been more controversy over Carter's nomination of Griffin Bell as attorney general, the Sorensen appointment appears to be the only one on which Carter faces the possibility of rejection by the Senate.

January 18, 1977

CONGRESSIONAL RECORD—SENATE

S 1021

Mr. HARRY F. BYRD, JR. Mr. President, it is said that one cannot fully judge a man until one has ascertained the opinion which his opponents hold of him.

Gerald Ford's return to the Congress last Wednesday night to an outpouring of affection by his political friends and opponents alike reconfirms the genuine fondness all segments of the political spectrum hold for him.

President Ford took hold of the reins of Government during one of the most difficult times in our Nation's history—a time of constitutional crisis and crippling public distrust of Government.

Times such as those called for a special kind of leadership—a person of unquestioned integrity and openness, whose personal honesty was above reproach. Few people in American political life exemplify those qualifications to a greater degree than does Gerald R. Ford.

As President Ford leaves office, our Nation is at peace, both at home and abroad. The wounds of Vietnam, for the most part, have been healed. American military forces, for the first time in many a year, are not engaged in combat.

Yet, the President has wisely emphasized in his last formal speech to the Nation that the United States must remain militarily strong, this being the most effective way to insure peace and stability throughout the world. President Ford has worked continuously to achieve the delicate balance of strength without beligerency.

On the domestic front, he has shown greater vacillation than in his handling of foreign affairs. If the huge deficit spending of the Federal Government during his Presidency is not exactly the kind of monument a President would like, he can, with accuracy, point to the fact that his major partner in the spending process—the Congress—would have opted for even greater deficits.

Gerald R. Ford was unexpectedly thrust into the office of President of the United States. He did not seek it, and one can well believe that he did not even want it. But he worked hard and decently and sacrificed much.

As President Ford leaves office, he takes with him the good wishes and, indeed, the affection of most Americans.

I salute him as a friend—and as a President who has contributed much to our Nation.

Mr. TALMADGE. Mr. President, I am very glad to have this opportunity to join the Senate in paying tribute to President Gerald R. Ford. President Ford leaves behind a record of 25 years of distinguished service in the Congress of the United States and as Chief Executive of our Nation.

One cannot know President Ford personally without being extremely fond of him. This was demonstrated by the warm reception he received last Thursday night in his farewell State of the Union address.

He is a man to be admired for his candor and openness, his courage and forthrightness. He ascended to the office of the Presidency in a way no other man had done before in the history of our Republic. Confidence in the Chief Execu-

tive and in government in general was extremely low. He made it his first order of business to put the affairs of the White House in order and to heal America from the grave wounds of the Vietnam war and scandal which soiled the honor and integrity of our great Nation.

President Ford can take pride in all that he did to restore faith and confidence in the Presidency and the White House. I have been proud to work with him during the time that he served in Congress and in the White House, and I always will cherish the warm association we have had over many years. I extend to President Ford and all his family Godspeed and my very best wishes for every happiness and success in the years ahead.

Mr. STAFFORD. Mr. President, Vermonters discovered long ago that the mouth usually does a poor job as an interpreter for words from the heart. So our oral outpourings mostly are pretty short.

These will be also, but I cannot let this moment pass without paying humble tribute to President Gerald Ford.

During my service with him in the House of Representatives, Gerry Ford became a valued friend and counselor. He had firm and strong convictions, but was always understanding when one had other views. He gave unselfishly of his time and talents to assist many of us in other parts of the country, although he sought nothing greater than to serve the people of his own District in Michigan.

Then, as we know, history took hold of events.

But Gerry Ford never changed.

He brought to the office of Vice President and then to that of President of the United States the same friendliness, the same decency, the same honesty that he had always exhibited in dealing with all human beings.

Whether with his family, his constituents, his colleagues in the Congress, or in the Oval Office as President, this man was the same honorable person. One had the feeling that his words truly did come from the heart.

Gerald R. Ford has served American well.

America will remember him well in the days ahead.

Mr. WALLOP. Mr. President, I would like to take this opportunity, on behalf of the people of the State of Wyoming and myself, to offer President Ford our heartfelt admiration and respect for the job he has done during his tenure in the White House.

I believe the people of Wyoming demonstrated their trust in President Ford when they gave him an overwhelming vote of confidence on November 2, 1976.

I am sure that I am speaking for the people of Wyoming when I say we are grateful for the stability he brought to our country during a time of unprecedented political and social turmoil.

President Ford's candor and humanity has restored the public's confidence in their elected officials. It was a tremendous Bicentennial gift to our great country.

I would like to express our warm ap-

preciation to President Ford for the work he has done and offer best wishes for whatever the future may hold for him.

Mr. PACKWOOD. Mr. President, Gerald Ford is one of the rare Americans who have had the privilege of serving this country, not only as a highly distinguished Member of the House of Representatives, but also as President, an honor received by few. I am confident that future generations will remember him as one of the most remarkable Presidents of this country. When he inherited the office, it was in the most shaken state of our Nation's history. Yet in a short period of time, Gerald Ford brought back some of our most basic and cherished virtues to our highest office—honesty, decency, openness, fairness, warmth, and a sense of humor. Few men leaving office have earned such strong personal respect from those of all political persuasions.

To me, Gerald Ford, Betty, and children exemplify a fine, fine American family, and their departure will leave us with a true sense of loss. They made me proud to be an American. I do want to point out, however, that though Gerald Ford is leaving office, he is not leaving the Republican Party, and I know all of us here will continue to look for him for counsel and leadership. We wish him and his family a most peaceful and fulfilling future.

RESOLUTION OF APPRECIATION AND HIGH REGARD FOR GERALD R. FORD

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order that we proceed to the immediate consideration of a resolution at the desk.

The PRESIDING OFFICER. The amendment will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 38) of appreciation and high regard for President Gerald R. Ford.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it may be in order for any Senators who wish to add their names as cosponsors to that resolution do so. I should like to have mine added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHMITT. Mr. President, I rise to ask that my name be added as cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. May I add my name, too, Mr. President.

Mr. CRANSTON. Mr. President, I would like my name added, too.

Mr. ALLEN. Mr. President, I should like to add my name.

Mr. SCHWEIKER. I should like to add my name.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, under the order, all Senators may have

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until 6 p.m. today to add their names, I believe by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 38) was agreed to.

The preamble was agreed to.

The resolution offered by Mr. CURTIS, Mr. BAKER, Mr. TOWER, Mr. STEVENS, Mr. HANSEN, Mr. JAVITS, Mr. BELLMON, Mr. ROBERT C. BYRD, Mr. SCHMITT, Mr. ALLEN, Mr. HAYAKAWA, Mr. CRANSTON, Mr. SCHWEIKER, and Mr. SCOTT, with its preamble, reads as follows:

S. RES. 38

Whereas, Gerald R. Ford, our 38th President has now completed more than 34 years of service to the Government of the United States, comprising almost four years in the Navy during World War II, 25 years in the House of Representatives, ten months as Vice President and Presiding Officer of the Senate, and two and one-half years as President; and

Whereas it is agreed that when Gerald R. Ford became President he entered office in a unique manner in the most trying of circumstances; and

Whereas President Gerald R. Ford restored the sense of national trust and honor that is essential to the governmental process; and

Whereas President Gerald R. Ford earned and won respect for his integrity and his steadfastness, and the entire Nation was strengthened; and

Whereas President Gerald R. Ford leaves his office with a Nation rebuilt and ready to move forward; and

Whereas our friend and leader Gerald R. Ford leaves the political stage with the gratitude of all Americans secure in the knowledge he was the right man for the right job at the right place: Now, therefore, be it

Resolved, that the United States Senate recognizes the outstanding contributions made by President Ford to this Nation, commends him for the manner and integrity with which he carried out his responsibilities, and wishes him Godspeed in his new and active life.

Resolved further, That the Secretary of the Senate is hereby directed to send a copy of this Resolution to the President of the United States.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now go into executive session to consider nominations on the executive calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

U.S. AIR FORCE AND U.S. ARMY

The assistant legislative clerk proceeded to read nominations on the executive calendar.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all of the nominations on the executive calendar be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I have conferred with the majority

leader and all of these nominations are confirmed on our side.

The PRESIDING OFFICER. Without objection, all nominations are considered and confirmed en bloc.

(All nominations confirmed today are printed in the Record at the conclusion of the Senate proceedings.)

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TED SORENSEN NOMINATION

Mr. McGOVERN. Mr. President, I deeply regret the manner in which Theodore Sorensen was forced to withdraw his name as President Carter's nominee to direct the Central Intelligence Agency. I think the handling of this entire matter represented the Senate and the Federal establishment at its very worst. The only grace about the entire matter was the manner in which Mr. Sorensen withdrew his name from further consideration. Unfortunately, the insidious behind-the-scenes attacks on Mr. Sorensen which forced his withdrawal have deprived the Nation of the services of one of its most capable and patriotic men.

Today's Washington Post editorial about this matter notwithstanding, the attacks on Mr. Sorensen implying that his past record with regard to handling of classified materials would jeopardize the Nation's security is, in fact, McCarthyism pure and simple. Because I believe this case could be of importance beyond the immediate impact, I ask unanimous consent that my statement, prepared for the Senate Select Committee on Intelligence Activities, and a brief memorandum I have prepared on the past practice of other government officials of leaking information to the press be printed at this point in the Record, along with a copy of Mr. Sorensen's statement of yesterday, his biographical sketch, a list of the witnesses scheduled to testify, both in support and in opposition to this nomination, and an article about the issue appearing in the Washington Post of January 16.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR GEORGE McGOVERN,
DEMOCRAT OF SOUTH DAKOTA

Mr. Chairman: I strongly support the nomination of Theodore Sorensen as Director of the CIA. I have known all of the directors of the agency during the past twenty years and I believe Ted Sorensen to be as well, if not better qualified to head the agency as any of his predecessors. His experience, judgment, reliability and intelli-

gence are all stronger than we are accustomed to in this office. I have known him as a friend, as an associate, as a dedicated public servant, as a presidential confidante and as an eminent attorney. He is a man of intense patriotism who can be relied upon to place the national interest first and foremost at all times.

It is because I know his qualities of mind and character so well that I resent the scurrilous attack that was unleashed against him this past weekend. Certain largely unidentified people have leaked a variety of stories to the press designed to prejudice the nomination of this man. The campaign being waged against him has not been equalled since the days of the late and unlamented Joe McCarthy.

What do they say of Ted Sorensen? They say first that he doesn't have experience. The truth is that he has more experience in both national and international affairs than the President-elect who has nominated him. The director of the CIA does not need to be an experienced spy or an experienced break-in artist. If on-the-job experience in such activities were needed in the Director's office, we should be seeking out H. L. Hunt, or James McCord or J. Gordon Siddy. But these experienced CIA men have all been sent off to jail. Which is one way of reminding us that what the CIA now needs is a director of sound morals with a knowledge of American legal and constitutional principles, a strong character and a clear sense of the national interest. Ted Sorensen has all of these qualities. Talk about experience. He was the White House Counsel under the late President Kennedy. He was a trusted aide of John Kennedy during his Senate service. He traveled the length and breadth of America with John Kennedy during his long four-year bid for the presidency. In the White House he was the principle drafter of the great messages President Kennedy delivered to the nation and the world. But beyond this, he was a trusted advisor in every arm of the government—including many matters involving the intelligence functions of the government. He saw at first hand the operation of the entire governmental complex. Few, if any, men ever to serve as director of the CIA brought to that office the wide-ranging experience of Ted Sorensen.

They say he took his government papers including classified papers with him when he left White House service. But this is not something he has concealed, nor is it without ample precedent. Ted Sorensen volunteered this information in his own voluntary affidavits which he submitted at the public trial of Daniel Ellsberg. He gave this affidavit as a means of demonstrating a fact of life, which is that it is customary for White House aides to take their files with them when they leave government service.

It is said that he leaked classified information. But Mr. Sorensen has assured those who ask him about this matter that he never released classified information except when ordered to do so by the President. Nor has anyone demonstrated how anything he ever released under presidential order was damaging to the nation.

If certain Senators are so incensed about the practice of leaking, how do they explain their own conduct in anonymously leaking reports about Mr. Sorensen? And why don't they get more incensed about the persons who in recent days have leaked the classified CIA estimates of Soviet military strength relative to American military strength? What about the constant leaking by the Pentagon of classified information on weapons systems?

One unnamed Senator was quoted in yesterday's Post as follows: "The job requires a man of authority, a man who can control the

entire intelligence community—a Jim Schlesinger, not a Sorensen. The director of the largest intelligence service in the world is a leaker. It undermines the whole intelligence effort. It raises questions about his judgment."

I submit that a statement like that raises questions, not about Mr. Sorensen's judgment, but about the judgment of the anonymous Senator. That Senator appears to be more accomplished at leaking than at judging. If he regards leaking as the most serious offense of the CIA, what does he think about that agency's record of attempted but bungled assassination efforts, its working alliance with the criminal underworld, its crude efforts to subvert independent governments, its secret wars, its shabby un-American performance for so many years in so many places. It is these shameful, self-defeating practices that jeopardize the CIA and that must be brought under control if that agency is not to continue discrediting the good name of the United States.

Ted Sorensen is the kind of man who will know what his agency is supposed to do as well as what it is not supposed to do. I hope for the sake of America that he will be confirmed in the important assignment for which President-elect Carter has selected him.

On the basis of what I now know about this nomination and what has been said about it as reported in the press, I can only conclude that if it were rejected, we can mark it down that the ghost of Joe McCarthy still stalks the land.

MEMO FROM SENATOR MCGOVERN

Other leaking

1. "Leaks are as important to the bureaucrats and politicians as they are to reporters. Thomas J. Smith, an inspector in the FBI's intelligence division, was later to draw a distinction between what he called 'controlled' and 'uncontrolled' leaks. A 'controlled' leak, he suggested, was one undertaken by the government for good and proper purposes of its own. An 'uncontrolled' leak was one undertaken by a government official for purposes deemed to be improper. The FBI, Smith said, had decided to investigate only 'uncontrolled' leaks." (J. Anthony Lukas, *Nightmare, The Underside of the Nixon Years*)

2. Suggest that the committee should call Helms, Bush, Colby, and/or Schlesinger to ask whether any of them had ever engaged in leaking themselves, or directly or indirectly authorized a leak.

3. "... Kissinger did leak—to favored powers in the Washington press corps like Max Frankel of *The New York Times*, Chalmers Roberts and Murray Marder of *The Washington Post*, and Marvin Kalb of CBS." (J. Anthony Lukas, *Nightmare*)

4. "If any of the incoming reports indicated any kind of progress, Rostow immediately authorized a leak. *Business Week* got computer data charts of attacks by Vietnam (if they were down); the *Christian Science Monitor* got computerized population-control data from the Hamlet Evaluation Survey; the Los Angeles *Times* received data on the searches of junks and hamlets secured." (David Halberstam, *The Best and the Brightest*)

STATEMENT OF THEODORE C. SORENSEN

Mr. Chairman, Members of the Committee: I am grateful for this opportunity to share with you my views on President-elect Carter's decision to nominate me for the post of Director of Central Intelligence, and to answer the scurrilous and unfounded personal attacks which have been anonymously circulated against me.

I did not seek or lightly accept this assignment, and some of my friends have suggested that anyone agreeing to take the job lacks either the sanity or the judgment

necessary to fulfill it. I recognize that the successes of the Intelligence Community are largely unspoken while its errors are roundly assailed; that it is often accused of deeds that it never committed or that it undertook at the request of higher authority; and that the Agency and its employees are rarely able to defend themselves publicly against these attacks. In recent days, I have had the same experience.

But I do not intend to be intimidated by those who wish to strike at me, or through me at Governor Carter, by personal attacks on my integrity and probity, grossly distorting the facts and maliciously twisting my words. I prize both my country and my honor too greatly to desert this post under that kind of cloud; and I am here to appeal to the sense of fairness of the Members of this Committee.

I recognize that some of you have legitimate questions concerning my qualifications. But before dealing with those questions, I must as a matter of personal privilege respond to the personal attacks upon my character which my nomination has suddenly stirred.

1. First, it has been said that I leaked or otherwise conveyed classified information for political or personal purposes. That charge is totally false. In the White House, I drew upon classified materials in backgrounding the press only when I was specifically directed to do so by the President, who clearly had such authority; and I took documents home for review only in those rare instances when I would otherwise have spent 24 hours a day in that office.

I have never compromised the national security of this country, or approved of anyone else doing so. My affidavits in the lawsuits brought against the *New York Times* and Daniel Ellsberg regarding publication of the Pentagon Papers accurately described the practices then prevalent in Washington—not as they should have been but as they were. Almost identical affidavits were submitted by a former Assistant Secretary of State, a former State Department Legal Adviser and a former Ambassador. During my White House service I received the highest security clearances from the CIA, and I received them again in the last few weeks. I have something of a reputation for guarding secrets, whether they be those of my government, my clients, or my friends. No one has ever charged me with conveying classified information to others or mislaying classified materials.

2. Second, it has been said that I improperly took classified documents with me from the White House when I left government service, improperly used them in writing my book on President Kennedy, and improperly obtained a tax deduction for donating them to the John F. Kennedy Library. Those charges are totally false. Upon the announcement in early 1964 that I was leaving the White House, I was visited by the Assistant Archivist of the United States, an official in the General Services Administration. He informed me that the papers in my files that I had created and accumulated during the period of my service in the White House were regarded by both law and historical precedent as my personal property; and further, that I was entitled to make any use of those papers that I deemed appropriate, whether selling them as some former White House aides had done, writing books based on them as other former aides had done, or donating them to an appropriate educational institution—with a tax deduction on the value of the gift—as still others had done.

Upon my signing on February 14, 1964, a letter of Intent to donate my papers to the Kennedy Library, the Archivist's Office sorted and packed my files, presumably leaving behind anything that was not mine,

transferred them to a GSA depository in the Boston area. The GSA then sent to my home certain of those papers which I had selected as necessary background materials for my book. It collected them from me upon completion of my manuscript, and the entire lot of my papers was then transmitted to the John F. Kennedy Library, to which I donated them.

Naturally there were classified papers among them (although no communications intelligence reports), just as there were classified documents among the papers taken upon their departure from the White House by the principal aides of every President at least since Woodrow Wilson, including Col. House, Samuel Rosenman, Harry Hopkins, Sherman Adams, McGeorge Bundy and many, many others. Like most of those named, I reviewed my papers, including classified papers, in preparing a book on my experiences, just as Gerald Ford at his confirmation hearing acknowledged drawing upon Top Secret documents in his possession when writing his book on the Warren Commission. In the decade since my book was published, no one has suggested that security was in any way breached by anything in my book, and it was in fact submitted for clearance in advance to the National Security Adviser to the President, to his former deputy, and to the former Deputy Secretary of Defense. My handling of classified information was at all times in accordance with the then-existing laws, regulations and practices.

Upon donating my papers to the Kennedy Library (instead of selling them individually for a far larger amount), I received the tax deduction to which I was entitled by law, just as many former government officials did over the years—including, in addition to some or all of those already mentioned, former Ambassador Galbraith, former White House aide Arthur Schlesinger, and former Governor and Ambassador Adlai Stevenson.

No doubt arguments can be made against the practice begun by George Washington of White House occupants taking their papers with them—John Eisenhower has recently stated, for example, that his father inherited from Truman and left to Kennedy no papers other than the instructions on nuclear attack procedures—but at the time I took my papers in 1964, that was clearly the accepted view of the law.

No doubt arguments can also be made against permitting tax deductions on the donation of papers by former government officials—and such arguments were made when the law was changed in 1960—but that was nevertheless the law prior to that time.

All of the above actions were taken with the full knowledge and approval of the government, and were publicly described in the well-publicized affidavits which I filed in the *New York Times* case and subsequently in the Ellsberg case. Those two cases involved important First Amendment issues, including the public's right to know the tragic history of the Vietnam War. Whatever improvements might have been made in the wording of my affidavits, I make no apology for having responded to the requests of counsel in both cases to attest to the inconsistencies and anomalies of government classification practices.

3. Third, it has been said that I avoided military service as a pacifist during World War II and the Korean War. This charge is totally false. I have never sought to avoid military service, hazardous or otherwise, in wartime or any other time. I have never advocated for the United States a policy of pacifism, non-resistance to attack or unilateral disarmament. The facts are that I registered for the draft upon becoming 18 years of age in 1946, a year after World War II ended, and shortly thereafter expressed the philosophy of non-violence with which I had been reared by two deeply idealistic parents by requesting, not an avoidance of military

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duty or hazardous duty, but military service in a non-combatant capacity (classification IAO)—preferring, by way of illustration, to serve on the battlefield as a medical corpsman saving lives instead of taking lives. This status was granted. My action was largely symbolic, inasmuch as our country was not then at war or expected to go to war. I have never, in my service on the Executive Committee of the National Security Council during the Cuban Missile Crisis or at any other time, permitted my preference for personal non-violence to inhibit in any way my advice to the President on the military and other options available as a matter of national policy. I would not have accepted Governor Carter's designation to be Director of Central Intelligence were I not prepared to carry out every lawful order of the President conceivably connected with this post.

4. Fourth, it has been said that my legal representation of multinational corporations and foreign governments poses a conflict of interest in undertaking this assignment. This charge is patently absurd. Over the years, the highest national security officials in our country have frequently represented such clients before taking office—including Messrs. Dulles, Acheson, Rogers, McCloy, Stevenson and a host of others—but no one challenged their right to serve or later claimed that their actions were prejudiced by those earlier ties. My only representations of foreign governments were the brief occasions on which I represented the Government of Iran, Zaire, Sierra Leone and Newfoundland in commercial disputes or negotiations. In no country did I have any connection with or firsthand knowledge of any activities of either their intelligence agencies or our own; nor do I have now any obligations or prejudices regarding any foreign country which would interfere with any official duties.

5. The fifth and final charge is the suggestion that I must have been somehow involved in the Kennedy White House plots to assassinate foreign leaders. That charge is totally false. I have previously testified under oath, and I do so again today, that I knew nothing of such plots; and no one who did has ever stated or ever could state, nor did your predecessor committee find or suggest, that I was informed or involved in any way. The record is equally clear that I had no advance knowledge or involvement of any kind in the Bay of Pigs or in any CIA covert operations.

Mr. Chairman, far more than any job or title, I value my good name. I resent this reckless scattering of baseless personal accusations in order to suppress a different point of view. I respectfully ask this Committee, whatever the fate of my nomination, to consider the evidence submitted today and previously submitted to your staff, and to make it clear that these personal charges are wholly false and without foundation and not the basis for the Committee's view of my nomination.

With these personal charges out of the way, we can turn now to the question of my qualifications—to legitimate questions raised by those with whom I respectfully disagree but who are entitled to raise what they regard as valid questions. There are basically two such questions:

First is the question of my experience in intelligence. I was an observer at National Security Council meetings and a reader of intelligence reports in the White House, and worked closely with the CIA and other national security officials during the Cuban Missile Crisis. I have since leaving the White House written and lectured widely on international affairs, and engaged in negotiations with dozens if not hundreds of top foreign officials. I was requested by the Ford White House a year ago to provide advice and consultation on its reorganization of the intelligence effort. My qualifications for this post have been endorsed by John McCone, Clark Clifford, Averell Harriman, Admiral Elmo

Zumwalt, General James Gavin, and others who know of my work. Most importantly, I was chosen by the President-elect as someone sufficiently in his personal trust and confidence to bring him the hard unvarnished facts, and to reject any improper orders whatever their source; as someone who possessed the integrity necessary to continue the task of restoring public trust and confidence in the CIA, and earning that trust and confidence by keeping the Agency accountable and free of abuse; and as someone with the degree of intellect and independence required to protect the integrity of the intelligence process from outside pressures and politics.

But I recognize that there are those, inside and outside of the intelligence establishment, who disagree with the Murphy Commission recommendation that an outsider always be named to this post; who refuse to recognize the totally non-partisan leadership provided by George Bush despite earlier concerns about his partisan background; or who see no value for this post in a lawyer's sensitivities to civil liberties and lawful conduct. These people believe that only someone from inside the military or intelligence establishment has the experience necessary for this job. I disagree.

Second is the question of my views. Although as previously indicated I am not a pacifist, I do favor a foreign policy that prefers where possible the risks of peace to the risks of war. Although as previously indicated I fully recognize the need for legitimate government secrecy, which is in fact weakened by over-classification, I do believe in the right of the Congress and public to receive far more information than they presently do from all government agencies, including the CIA. I believe in the application of moral and legal standards to national security decisions, including the limitation of covert operations to extraordinary circumstances involving the vital national interests of our country, with timely review by the appropriate Congressional Committees and written authorization by the President and his senior Cabinet officials.

There are those who disagree with these views and regard them as incompatible with the duties of a Director of Central Intelligence. Paying little heed to the fact that the Director's real responsibility is to provide leadership to the Intelligence Community and objective intelligence, not policy, to the President and his policymakers, these critics prefer to view this post as part of the national security decision-making apparatus and prefer in that post someone with policy commitments more like their own.

Obviously I disagree with that view as well.

THEODORE C. SORENSON, DIRECTOR OF CENTRAL INTELLIGENCE—DESIGNATE

Theodore C. Sorensen was born in Lincoln, Nebraska on May 8, 1928. From 1966 until his recent nomination, Mr. Sorensen was a partner in the law firm of Paul, Weiss, Rifkind, Wharton & Garrison in New York City. He is a member of the Bar of the States of New York and Nebraska and of the District of Columbia. He was Assistant to Senator John F. Kennedy from 1953 to 1961 and Special Counsel to President Kennedy from 1961 to 1963. In 1952, he served as counsel for the Joint Committee on Railroad Retirement Legislation. In 1951, he was employed as a counsel for what is now the Department of Health, Education and Welfare.

Mr. Sorensen served as Chairman of the Advisory Committee, New York State Democratic Party from 1967 to 1969; as an advisor to the Robert F. Kennedy for President Campaign in 1968; and as a delegate to the National Democratic Convention in 1968. He was the co-author of the Party's Minority Peace Plank in that year. In 1970, he was a candidate for the United States Senate in the New York Democratic Party.

His memberships include: Phi Beta Kappa;

the National Executive Committee of the Lawyers Committee for Civil Rights Under Law; American Society of International Law; and the Council on Foreign Relations. He is a trustee of the Robert Kennedy Memorial and of the Medgar Evers Fund.

Mr. Sorensen is the author of *Kennedy: Decision-Making in the White House*; *The Kennedy Legacy*; *Watchmen in the Night*; and numerous magazine articles.

He received his undergraduate and law degrees at the University of Nebraska, where he was Editor-in-Chief of the Law Review and ranked first in his law school class.

Mr. Sorensen is married and has four children.

TENTATIVE WITNESS LIST, CONSIDERATION OF THE NOMINATION OF MR. THEODORE C. SORENSON TO BECOME DIRECTOR OF CENTRAL INTELLIGENCE, COMMENCING JAN. 17, 1977

The witnesses in support of Mr. Sorensen's nomination will include:

Ambassador Averell Harriman;
Mr. Clark Clifford;
Judge Simon Rifkind; and
Admiral Elmo Zumwalt.

Witnesses commenting on the issue of the nomination:

Common Cause—Mr. David Cohen, President.

The witnesses in opposition to Mr. Sorensen's nomination will include:

Congressman Larry P. McDonald (7th Dist. Georgia).

The Conservative Caucus—Mr. Howard Phillips.

The Conservative Caucus—Mr. Larry Uzzell.
American Conservative Union—Mr. Francis J. McNamara.

Committee for the Survival of a Free Congress—Mr. Charles Moser.

Fusion Energy Foundation—Dr. Morris Levitt.

Center for National Security Studies—Mr. John Marks.

Liberty Lobby—Mr. Robert M. Bartell.
U.S. Labor Party—Ms. Susan Kokinda.
Mr. E. C. "Mike" Ackerman.
Ambassador Edward M. Korry.
Dr. Stefan Posszony.

[From the Washington Post, Jan. 16, 1977]

SOERSEN NOMINATION IN TROUBLE

(By Spencer Rich)

The nomination of Theodore C. Sorensen as Central Intelligence Agency director appeared in grave danger yesterday, amid reports that several members of the Senate Intelligence Committee have asked President-elect Jimmy Carter to withdraw Sorensen's name or face the possibility he will not be confirmed.

The Intelligence Committee begins hearings Monday on Sorensen. His problems result from sworn affidavits, which he submitted in the 1970 Pentagon papers case and the 1972 trial of Daniel Ellsberg, that he had taken classified materials from the White House when he left it in 1964 after being a top aide to the late President Kennedy.

Sorensen, who was at the CIA headquarters in Langley, Va., yesterday, issued a statement last night saying Carter "has reaffirmed his strong determination that I serve as director of central intelligence and I expect to do so."

Mark Alcott, a law partner of Sorensen who was acting as his spokesman, said the reaffirmation came during a telephone conversation between Carter and Sorensen yesterday.

Sorensen said in his statement that Carter had read the affidavits which have been on the public record for five years, and "is familiar with all the facts."

He said, "Any charge that I have acted improperly with respect to classified information or White House papers is totally false."

Members of the Senate Intelligence Com-

January 18, 1977

mittet, who received copies of the Sorensen affidavits Friday, said they show that he used some of the materials in his 1965 book, "Kennedys" and received a tax break for donating those and other papers to the government.

The affidavits also state, members said, that he leaked classified materials while in the White House for political and other purposes. The affidavits were called to the committee's attention by Sen. Joe Biden Jr. (D-Del.), a member.

Yesterday, three members of the Intelligence Committee, who asked not to be identified, said they had been told that Committee Chairman Daniel K. Inouye (D-Hawaii) and Senate Minority Leader Howard H. Baker (R-Tenn.), as well as several others, had advised Carter that he should consider withdrawing Sorensen's name, because he lacked judgment and respect for the classification process.

Spokesmen for both Inouye and Baker declined to confirm or deny the report. A spokesman said Baker, an ex officio member of the committee and its former senior Republican, had talked with Carter about Sorensen. Baker told reporters on Jan. 7 that there was "significant opposition" to Sorensen.

Senate Majority Leader Robert C. Byrd (D-W.Va.), meanwhile, told reporters yesterday that the Sorensen nomination "is in considerable difficulty" and he "wouldn't be willing to say" at the moment that he will support Sorensen. He said Sorensen's "chances, at this point, are questionable."

A Carter spokesman in Washington said that the President-elect "is going to stand by this nomination fully." In Plains, Ga., Carter's deputy press secretary Rex Granum said Carter is "aware of the problem."

Sen. Jake Garn (R-Utah), a member of the 15-man Intelligence Committee, said he opposes Sorensen, and he believes Sens. Strom Thurmond (R-S.C.), Barry Goldwater (R-Ariz.) and Robert Morgan (D-N.C.) have also decided to oppose Sorensen.

"First of all, I don't think he has any experience at all," Garn said. "Secondly, I'm very concerned about someone who would leak classified documents out of the White House."

One committee Democrat, who asked not to be identified, said that both Sorensen and Carter "are being urged to withdraw the nomination in a most emphatic way—by senators on the committee and by others. They're not all Republicans. It's coming from both sides."

"I think a majority of the committee would vote against him now. It was marginal to begin with. He wasn't qualified. It never made any sense. The job requires a man of authority, a civilian who can control the entire intelligence community—a Jim Schlesinger, not a Sorensen. The director of the largest intelligence service in the world is a leaker! It undermines the whole intelligence effort. It raises questions about his judgment."

"He didn't tell Carter. This was nip and tuck before. Now it's impossible."

Sen. Mark Hatfield (R-Ore.), also on the committee, said, "I have heard that some have urged his withdrawal. A significant number have reservations."

The Pentagon papers case arose in 1971 when the government attempted to prevent The New York Times, Washington Post and other publications from publishing Pentagon documents, which had been obtained from a then unknown source or sources, giving the history of secret government deliberations involving the Vietnamese war.

Later, Ellsberg was accused of leaking the secret documents, which he had obtained when working for the Rand Corp., a government contractor, by duplicating a copy of the papers in Rand's possession.

Ellsberg was tried in 1972 on a 15-count indictment alleging national security viola-

tions, but the charges were dismissed after 89 days of trial in 1973 because of the "plumbers" break-in of his psychiatrist's office.

Sorensen filed the affidavits on behalf of Ellsberg and a codefendant in an effort to show that it was not uncommon for high government officials to take documents with them when they left the government and that leaking secret information was done often.

In his affidavits, according to several members of the Intelligence Committee, Sorensen admitted that when he left the White House in 1964, he took with him 67 boxes of material accumulated during his years as President Kennedy's top White House staff aide, including seven boxes of classified documents, such as copies of Kennedy-Khrushchev materials, materials on the Congo, Bay of Pigs, Laos and Berlin crises, and a transcript of the Kennedy-Khrushchev meetings in Vienna.

The affidavits also indicate he donated some of the material to the National Archives and received a tax break.

Senate aides said the hearings are scheduled to go on Monday unless Sorensen's name is withdrawn and that Sorensen is preparing a spirited defense before the committee in the hope of saving his nomination.

ORDER OF BUSINESS

(The following proceedings occurred during the tributes to President Ford and are printed at this point in the Record by unanimous consent.)

Mr. HELMS. Mr. President, the able Senator from New Mexico is on his way to the Chamber for the purpose of paying tribute to the outgoing President of the United States. The Senator from Alabama has a matter he wants to present. I ask unanimous consent that the Senator from Alabama be permitted to proceed, with the understanding that when Senator SCHMITT arrives, he can make his remarks and they will appear in the Record at the appropriate place.

Mr. BAKER. Mr. President, reserving the right to object, and I do not plan to object, could I know the nature of the other business the Senator from Alabama has?

Mr. ALLEN. I have another resolution which I am going to ask unanimous consent be considered at this time. I understand that objection will be made, and that it will go over under the rule; and it will take only 2 or 3 minutes. It has to do with the sense of the Senate in opposition to blanket pardon and amnesty.

Mr. BAKER. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 40—TO EXPRESS THE SENSE OF THE SENATE IN OPPOSITION TO A GENERAL PRESIDENTIAL PARDON BY PROCLAMATION OR EXECUTIVE ORDER OF VIETNAM ERA DRAFT EVADERS, AND FOR OTHER PURPOSES

Mr. ALLEN. Mr. President, I send to the desk, in behalf of myself, Mr. HARRY F. BYRD, JR., Mr. HELMS, Mr. GARN, Mr. HAYAKAWA, Mr. THURMOND, Mr. GOLDWATER, Mr. BELLMON, Mr. HANSEN, Mr. HATCH, and Mr. McCLURE, a resolution having to do with expressing the sense of the Senate in opposition to blanket

pardon or amnesty. I ask unanimous consent for the immediate consideration of the resolution.

Mr. ABOUREZK. Mr. President, I object. Mr. President, I object.

The PRESIDING OFFICER. The resolution will be stated, first.

The assistant legislative clerk read as follows:

A resolution (S. Res. 40) to express the sense of the Senate in opposition to a general Presidential pardon by proclamation or executive order of Vietnam era draft evaders, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ABOUREZK. I object.

Mr. ALLEN. Mr. President, I did not expect the resolution to be considered at this time. I had informed the majority leader that I planned to do this, and stated I understood that he would make objection.

The PRESIDING OFFICER. Objection having been heard, the resolution will go over under the rule.

The resolution (S. Res. 40) is as follows:

S. RES. 40

Resolved, that

Whereas President-elect Jimmy Carter has indicated that he will, as one of his first official acts as President, issue some form of Presidential pardon for all Vietnam era draft evaders;

Whereas the grant of an immediate blanket Presidential pardon for all Vietnam era draft evaders would be a disservice to the more than 3 million men and women who served honorably in the Armed Forces during the Vietnam era and to the families whose sons died in battle or captivity or remain missing in action;

Whereas the grant now of an immediate blanket Presidential pardon for all Vietnam era draft evaders would ignore the purpose and work of the Presidential Clemency Board and make meaningless the alternate service performed by those who elected to apply for clemency;

Whereas an immediate blanket Presidential pardon for Vietnam era draft evaders could have dire effect on military morale and discipline and might tend to hamper future defense efforts; and

Whereas the issue of blanket pardons for draft dodgers is of such importance to the United States and the people of the United States that the Senate feels that President-elect Carter and the people should be advised of the sense of the Senate on this issue;

Now therefore, the sense of the Senate is that the President of the United States would be ill-advised to pardon, and he is hereby urged not to pardon, by any general or blanket decree, proclamation, order, or amnesty draft evaders who chose to break the laws of the United States rather than to serve honorably in our Armed Forces during the period August 4, 1964, through March 28, 1973, and it is further the sense of the Senate that each application for pardon for draft evasion should be handled compassionately but on the basis of its own merit or demerit.

ORDER FOR RECESS FROM WEDNESDAY, JANUARY 19, UNTIL 10:15 A.M. ON THURSDAY, JANUARY 20, 1977 AND ORDER OF BUSINESS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the

Senate completes its business on tomorrow it stand in recess until the hour of 10:15 a.m. on Thursday; and, provided further, that there be a place in the Record for statements, bills, resolutions, petitions and memorials on Thursday; and that after the two leaders or their designees have been recognized under the standing order for not to exceed 5 minutes each on Thursday that there be a quorum call, at which time Senators will gather in a body to proceed to the inauguration of the new President and Vice President; and that the Senate, following the inauguration, continue to stand in recess during the day awaiting the call of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it would be my hope that following the inauguration, at some point during the afternoon the Senate could reconvene and take up those nominations which, by then, will have been received from the new President and will have been reported from the various committees subject to the receipt of the names from the President, and on which no controversy is expected, so that hopefully those nominations can be confirmed by unanimous consent on Thursday afternoon. That will be the intent of the leadership.

Mr. STEVENS. Reserving the right to object—and I shall not object—it is my understanding, would I be correct in stating it, that there would be no anticipated rollcall votes on Inauguration Day because of the rule that if there was any objection at all the nomination would have to go over; is that correct?

Mr. ROBERT C. BYRD. The Senator is exactly correct. No rollcall votes would be anticipated, and we would only take up those nominations which have been reported from the committees by unanimous consent and on which no rollcall votes are expected that day.

Mr. STEVENS. I thank the Senator.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, while I have the floor, I shall announce that no rollcall votes are expected during the remainder of this day.

ORDER FOR ADJOURNMENT FROM THURSDAY, JANUARY 20, 1977 UNTIL FRIDAY, JANUARY 21, 1977

Mr. ROBERT C. BYRD. I ask unanimous consent at this time that when the Senate completes its business on Thursday, it stand in adjournment until the hour of 12 o'clock noon on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM FRIDAY NEXT TO MONDAY, JANUARY 24, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this order may be vitiated later depending on the circumstances—that when the Senate completes its business on Friday it stand in adjournment until the hour of 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MCGOVERN ON TOMORROW

Mr. CRANSTON. Mr. President, I ask unanimous consent that the time allocated to me tomorrow be allocated instead to Senator McGovern.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CRANSTON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of Mr. HART on tomorrow, Mr. CRANSTON be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, the Senate will convene at the hour of 2 o'clock. After the two leaders or their designees have been recognized under the standing order, Mr. HART will be recognized for not to exceed 15 minutes, after which Mr. CRANSTON will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each. It is possible that rollcall votes may occur on tomorrow afternoon, inasmuch as various resolutions are in a position to be coming over under the rule. What will occur in regard to those resolutions remains to be seen, but rollcall votes may occur. As a matter of fact, I would expect such rollcall votes to occur.

PROGRAM FOR THURSDAY, JANUARY 20, 1977

Mr. ROBERT C. BYRD. Mr. President, when the Senate completes its business tomorrow, it will stand in recess until the hour of 10:15 a.m. on Thursday. The two leaders on Thursday will be confined to 5 minutes each under the order previously entered, and all Senators may enter into the Record on Thursday statements, bills and resolutions, petitions and memorials. But following the recognition of the two leaders on Thursday, there will be a quorum call.

Circa 10:15 a.m. on Thursday, Senators will gather in a body to proceed to the inauguration and, following the inauguration, the Senate will stand in recess, under the order previously entered, awaiting the call of the Chair.

At some point during the afternoon, and I think by tomorrow, I shall be able to be more specific on this point, nominations that are not controversial and on which rollcall votes are not anticipated and which are expected to be agreed to by unanimous consent will be taken up, of course, subsequent to the receipt by the Senate of the messages from the President containing these nominations.

ADJOURNMENT

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 2 p.m. tomorrow.

The motion was agreed to; and at 5:47 p.m., the Senate adjourned until tomorrow, Wednesday, January 19, 1977, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate January 18, 1977:

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Donald Jordan Brown, 390-16-9655.
Brig. Gen. Leston Neal Carmichael, 312-18-3851.
Brig. Gen. Richard Holcomb Cooper, 262-28-2298.
Brig. Gen. Ladd Franklin Hunt, 542-12-7236.
Brig. Gen. John David Jones, 416-36-8203.

To be brigadier general

Col. Robert Melvin Carter, 151-22-6704.
Col. Joseph Peter Cillo, 166-20-9264.
Col. Edward Dorwart Clapp, 472-2-4518.
Col. Robert Earl Crosser, 452-32-9300.
Col. Robert Milton Erfmeyer, 387-20-1774.
Col. Jack Howard King, 531-26-0174.
Col. James Carroll McElroy, Jr., 537-28-0088.
Col. Dean Winston Meyerson, 142-30-9077.
Col. John Herbert Pigman, 475-20-3714.
Col. Antonio Rodriguez-Balinas, 581-68-6881.
Col. Zack Church Saufley, 400-32-0600.
Col. Robert LeRoy Shlrkey, 514-09-2519.
Col. Russell Cowan Wright, 453-28-1129.
The Army National Guard of the United States officers named herein for appointment as Reserve Commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. William Herbert Duncan, 222-16-5243.
Brig. Gen. Delmer Hilton Nichols, 460-14-5254.
Brig. Gen. James Simonet O'Brien, 474-16-0751.

To be brigadier general

Col. Neil Edison Allgood, 529-14-5351.
Col. Robert Francis Brainard, 570-07-3017.
Col. Bernard Cole Clippard, 410-20-2471.
Col. Joseph Patrick Hegarty, 021-18-0025.
Col. Willard Dimock Hill, Jr., 458-36-9533.
Col. Thomas Seiei Ito, 576-24-4698.
Col. James Thomas Keltner, 455-16-3725.
Col. Maurice Hamilton Phillips, 485-26-2638.

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FRONT PAGE

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Sorensen Withdraws As Nominee for CIA

Succumbs to Controversy

By Lee Lescaze

Washington Post Staff Writer

Theodore C. Sorensen succumbed yesterday to the sudden controversy surrounding his nomination as Director of Central Intelligence by withdrawing from Senate consideration.

His dramatic action came at the opening of his confirmation hearings after he and President-elect Jimmy Carter apparently counted votes in the Senate Intelligence Committee and concluded that his nomination for the nation's top intelligence job would not be approved.

After reading to the end of a strong defense of his past actions against what he called "scurrilous and unfounded personal attacks," Sorensen added his startling final four paragraphs in which he said:

"It is now clear to me that a substantial portion of the United States Senate and the intelligence community is not yet ready to accept as Director of Central Intelligence an outsider who believes as I believe . . ."

In Plains, Carter called Sorensen's action "characteristically generous and unselfish, designed to spare the administration and the country the effects of a divisive and emotional controversy."

That controversy would have dragged on through Carter's inaugural. Senate Minority Leader Howard H. Baker (R-Tenn.) and GOP National Chairman Bill Brock

had been leading the attack on Sorensen which mushroomed over the weekend.

Sen. Charles McC. Mathias (R-Md.) said he had been undecided on the nomination but added: "I think Mr. Sorensen made a wise decision. Whatever the facts may prove to be, there was going to be a bitter and prolonged controversy which would have weakened him and weakened the CIA."

Over the weekend, following criticism of Sorensen's past handling of classified information and his registration for non-combatant status with his draft board, a number of Democratic committee members spoke with Carter on the telephone.

All, including two of the most liberal members of the committee, Sen. Joe Biden Jr. (D-Del.) and Sen. William Hathaway (D-Maine), expressed reservations about Sorensen.

The committee's senior Republican, Sen. Jake Garn (Utah) said after the withdrawal that he was confident the nomination would have been defeated.

Sen. Robert B. Morgan (D-N.C.), who opposed Sorensen, said there

were probably 10 "no" votes on the 15-member committee. "The burden of proof had shifted by this morning," he said.

That Carter was dealt an unusual rebuff by having one of his nominees fail at the start of his administration and that there was widespread animosity toward Sorensen were clear, but the reasons for the animosity were complicated.

Thomas B. (Bert) Lance, Carter's choice to head the Office of Management and Budget, told reporters that the withdrawal wasn't politically damaging to the President-elect. "It's not like he had brought the nomination out and had been defeated," Lance said.

Most of the anonymous and attributed criticisms of Sorensen over the weekend went to his taking seven boxes of classified material home with him when he left the White House in February, 1964, and his use of these in his book, "Kennedy."

Sorensen described these actions in affidavits he provided in two court cases involving the publication of the Pentagon Papers.

The defendant in one case was The New York Times and in the other was Daniel Ellsberg, who gave the classified Pentagon Papers to The Times for publication.

Sorensen's affidavits said his actions were not unusual, and he said yesterday: "My handling of classified information was at all times in accordance with the then-existing laws, regulations and practices."

He reminded the committee that President Ford, at his confirmation hearing as vice presidential nominee, acknowledged using classified documents to aid preparation of his book on the Warren Commission.

None of Sorensen's critics spelled out what damage his actions had done to the national security, but the affidavits became a rallying point for them. And the controversy that swirled up around the affidavits doomed the nomination. It appeared, because controversy is something many senators made clear they want divorced from the Central Intelligence Agency.

The role of the intelligence community in stirring opposition to Sorensen was not clear, Sorensen told reporters.

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SORENSEN WITHDRAWS

"It's become apparent to me that some individuals in the intelligence community wanted someone of a different philosophy."

He refused to elaborate and said only that "one senses these things" when asked for his evidence. He said he had no intention of condemning the intelligence community and that some of its members had been very supportive of his nomination.

Sorensen accused his attackers of fastening on the affidavits and his registration for non-combatant status while hiding their differences with him over whether an outsider like himself and a man with his record of advocating less government secrecy, more government accountability and the use of covert action only in emergencies should head the intelligence community.

It seemed clear that the storm that arose and demolished Sorensen's nomination would not have spread so quickly had several committee members not had doubts about him before the affidavits took center stage.

Sen. Birch Bayh (D-Ind.) stated this baldly after Sorensen's withdrawal, saying: "Some of the people are out to get you not because of the affidavits, but because they don't want a clean broom at the CIA."

Sorensen told reporters that the attacks on his past appeared to have originated with the American Conservative Union, the Liberty Lobby and the John Birch Society as well as other conservative groups. Many conservative spokesmen were waiting to testify against Sorensen.

After Sorensen announced his withdrawal, a number of committee members whose attitude toward Sorensen

had ranged from neutral to cold made short statements praising him.

Chairman Daniel K. Inouye (D-Hawaii) made public for the first time that the committee had received an FBI report giving Sorensen "a four-star rating," which means he could be considered for any position handling classified material.

Garn said he knew that there was never any question of Sorensen's honesty or integrity.

"I hope you will not leave this room with bitterness," Inouye said.

According to committee sources, the committee investigation of Sorensen showed there was no substance to two other charges made against him in recent days—that a conflict of interest existed because of his representation of foreign governments and multinational corporations and that he had knowledge of CIA assassination plots as a result of his position as special counsel to President Kennedy.

Baker said he hoped Sorensen understood that it was the nature of the American process to have "a frank, open, candid appraisal" of nominees.

Only Sen. Gary Hart (D-Colo.) pointed out that there hadn't been any public appraisal. He criticized his colleagues, saying Sorensen's case "was prejudged at the outset." Hart added: "He didn't have his day in court."

Sorensen said he told Carter he would withdraw in a 9:58 a.m. telephone conversation from the Russell Senate Office Building minutes before the hearing began, but that he "pretty well knew" his decision Sunday night.

He said Carter did not try to dissuade him.

Carter's press spokesman, Jody Powell, told reporters in Plains, Ga., that Carter learned of the affidavits Thursday and discussed them with Sorensen that day. Powell said the Carter camp had no inclination to hold Sorensen at fault for not speaking of the affidavits earlier.

Sorensen said his natural inclination was to fight for his nomination but it became clear to him that that "would only handicap the new administration if I am rejected or handicap my effectiveness as director if I am confirmed."

Carter said: "The administration and the intelligence community have lost the services of an extremely talented and dedicated man."

A new nomination for intelligence chief will not be made until after the inauguration.

Washington Post Staff writers Spencer Rich and Edward Walsh contributed to this article.

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Carter's First Defeat

By Robert G. Kaiser
Washington Post Staff Writer

The forced withdrawal of Theodore C. Sorensen's nomination to be Director of Central Intelligence—the first defeat of Jimmy Carter's still-unborn presidency—was a painfully public display of Carter's limited influence on Capitol Hill.

Carter's associates tried quickly to minimize the political significance of Sorensen's withdrawal. It was argued that Sorensen's personal liabilities were substantial, so his rejection was not simply a slap at Carter.

But the President-elect did try to save Sorensen, with

News Analysis

public statements of full support and with private telephone calls to key senators on the Intelligence Committee.

Perhaps the most revealing aspect of the entire tale was Carter's inability to convince at least four senators of his own party to give him and Sorensen the benefit of the doubt.

This could be an omen of the political realities in the first months of the Carter administration. The Democratic members of Congress—most of whom ran ahead of Carter in their home districts last fall—feel no special debt to the President-elect. And thus far he has not

generated the kind of popular support that might convince the Congress he is too popular to take on.

Carter's unusually ardent courtship of Congress during the transition period suggests a realization that his position needs strengthening. His decision not to fight harder for Sorensen may be a sign of strategic political tractability.

And Sorensen obviously did pose a special set of problems. He had few enthusiastic supporters and many critics from all sides of the political arena.

Moreover, Sorensen's candid affidavits on behalf of Daniel Ellsberg and The New York Times in the Pentagon Papers case inflamed the powerful intelligence lobby on Capitol Hill—the same forces what routed Sen. Frank Church (D-Idaho) and other would-be reformers who sought to strengthen congressional control over the intelligence community last spring.

So Carter's defeat this time does not necessarily foreshadow a series of additional defeats in the future. But it does demonstrate his vulnerability.

And it leaves him with an enormous problem: who can he find to run the Central Intelligence Agency?

Several names circulated among well-placed speculators yesterday: Thomas L. Hughes, president of the Carnegie Endowment for Peace, who asked Carter not to consider him for the CIA post before Sorensen was picked; Burke Marshall, deputy dean of the Yale Law School and an assistant attorney general in the Kennedy administration; and Paul C. Warnke, Washington lawyer and former assistant secretary of defense, who has just turned down the directorship of the Arms Control and Disarmament Agency.

Another name mentioned was Gerard C. Smith, also a Washington lawyer, who was the leader of the American delegation to the Strategic Arms Limitation Talks (SALT) in the early 1970s.

All four would fit the description of the type of person the President-elect, according to his press secretary, still seeks in a director of the CIA: "someone . . . from outside the intelligence community, someone with a degree of independence but with experience."

Several members of Washington's foreign policy establishment speculated privately yesterday that Carter may also need a candidate for the job who will seem less than ideal to the right-wing elements in the Senate which avidly pressed the fight against Sorensen during the last week.

According to this theory, if Carter now names someone with a hawkish reputation to the CIA job, he would be conceding an important victory to the right at the very outset of his administration.

The conservatives have already pushed Carter hard on his choice of a Defense Secretary, though he resisted pressure against Harold Brown, the man he eventually picked for that job. Several sources speculated yesterday that the withdrawal of Sorensen's nomination may embolden the hawkish members of the national security community to press for a more hawkish figure at the CIA.

One of the Democratic senators quoted anonymously over the weekend as opposing Sorensen suggested that Carter needed a man like James R. Schlesinger in the CIA. Schlesinger, whom Carter has chosen to be his energy "czar," is a favorite of the harder-line interests.

Mr. Sorensen Withdraws

THE COLLAPSE OF THE nomination of Theodore Sorensen to be Director of Central Intelligence amounts to the bleeding of Jimmy Carter—even before he has officially assumed office. Neither his preinaugural “honeymooner’s” status nor his party’s dominance in Congress, he found, was sufficient to win confirmation for the former Kennedy aide. It is no doubt a keen disappointment for the President-elect. But unless he makes it so, it need not be a disaster. It is merely a reminder, more clear-cut than most, that a President does not so much run the government as share control of it. This, you could say, is Political Lesson No. 1.

Keep in mind that the Sorensen nomination was in trouble from the start. A titan has not been brought down: a political figure has run afoul of the reservations stirred by his own controversial career. We ourselves, while admiring Mr. Sorensen’s mind and pen, asked when he was nominated if either his particular political and legal background or his reputation as a Kennedy loyalist qualified him for the post. Others raised other questions—granted, not all of them equally serious. But many people, from across the political spectrum, wondered whether Mr. Sorensen was the right man.

This is not to say that Mr. Sorensen did not have good reason to protest, as he did yesterday before he withdrew, the “scurrilous and unfounded personal attacks which have been anonymously circulated against me”—regarding his use of White House papers, his personal views on non-violence, and so on. Mr. Sorensen rebutted these attacks with persuasive eloquence, we thought. But we must at once add that it is something quite apart to contend, as did Sen. George McGovern in defending him, that “the real reason” for the failed nomination lay in those leaks. “The ghost of Joe McCarthy still stalks the land,” Mr.

McGovern declared. Those are David Lean words. They are also, in this context, absurd.

Mr. Sorensen himself noted that there was substantive opposition to him on the basis that he was not from within the military-intelligence establishment and that he believes in more open government and in the application of moral and legal standards to national security decisions. But we do not think that explains the intensity and scope of the opposition. For all the awkward reluctance of the Senate Intelligence Committee yesterday to render a clear public accounting, there was something else for which these substantive considerations, and the leaks, constituted a stalking horse.

Mr. Sorensen is identified in the minds of many—ourselves included—not only with devoted service but also with indiscriminating allegiance—personal loyalty beyond the bounds of public duty—to the President he served and to his brothers. It is hard to say so out loud; certainly it is hard to say so in a chamber of the U.S. Senate. We got the impression, nonetheless, that a substantial majority was unwilling to entrust some of the most sensitive and secret responsibilities of government to a man whose judgment many of them privately question. Not every senator with doubts about Mr. Sorensen stood on this “high” ground. But that seemed to be the burden of the privately articulated suspicions of him.

It is a comment of sorts on Mr. Carter that neither questions about Mr. Sorensen’s character nor apprehensions about the Senate’s possible reaction to the nomination seem to have blipped earlier on his personal radar screen. But Mr. Carter now has a second chance. He should accept, we believe, that the first requirement in the person who manages the intelligence community and advises the President on intelligence is high integrity. Other considerations are secondary. We await Mr. Carter’s next choice.

Rowland Evans and Robert Novak

The Sorensen Crisis

Discovery of Theodore Sorensen's crippling affidavit in the 1973 Ellsberg trial has now brought Jimmy Carter face to face with the first crisis of his presidency. But, in fact, the nomination of Sorensen was verging on crisis long before the affidavit surfaced.

The fact that Carter did not perceive this impending crisis before the Ellsberg affidavit exploded has astonished such strong Carter Democrats as Sen. Joseph Biden of Delaware, the first Democratic senator publicly to endorse his presidential candidacy, and Sen. Adlai Stevenson III of Illinois. Both are members of the Senate Intelligence Committee, which begins its confirmation hearings today on the nomination of Sorensen to run the CIA.

Both might have ended up voting for Sorensen—and, indeed, still may—but along with at least half dozen others on the 15-member committee, both were deeply worried that Sorensen might never win the confidence of the CIA or other U.S. intelligence units.

That factor of confidence has all along been the real source of doubt about Sorensen as intelligence chief. Indeed, one former officer of the CIA—now retired—told us that foreign allied intelligence agencies, notably the British MI-6 and the highly resourceful Israeli Intelligence Service, would find it difficult to place full trust in the CIA under Sorensen.

This view of John F. Kennedy's White House counsel may be unfair to Sorensen, but it is widely held both by discerning Democrats on the intelligence committee and by U.S. intelligence specialists. One committee Democrat, for example, told us he was astonished that, when Sorensen came to see him last week, it was Sorensen who asked the questions, not the senator.

"Ted was taking notes from me on

the operation of U.S. intelligence," this liberal Democrat told us, "instead of my taking notes from him."

Likewise, conservative Republican Sen. Jake Garn of Utah, a formal naval pilot, told Sorensen he would have no objection to him as Secretary of Health, Education and Welfare or Housing and Urban Development—but could never support him for CIA.

The Ellsberg affidavit immediately makes Sorensen far more vulnerable on this critical question of confidence. In the affidavit, Sorensen freely acknowledged that he went off with seven "boxes" of White House documents given a "secret" or other security classification; used them during research on his book, "Kennedy"; then gave them, along with 62 other boxes of White House documents, to the U.S. Archives (and took a legal tax deduction for the gift).

Taking classified documents, under normal circumstances, is at the least a violation of government regulations, and in certain cases could be a criminal offense. But that is not what makes Sorensen—and Jimmy Carter—so vulnerable. The legal aspect of the affidavit is secondary to the confidence factor: The Director of Central Intelligence is the one official of government not permitted national security short-cuts.

In addition, politicians cite Sorensen's long public record against clandestine operations abroad—the CIA's so-called "department of dirty tricks"—as revealing a state of mind that has its place in the political community but is dangerously misplaced in a Director of Central Intelligence.

In "Watchmen in the Night," Sorensen's 1975 book about presidential "accountability" after Watergate, he suggests that the United States should "start erring on the side of overdisclosure instead of overconcealment." He also questions covert operations abroad, saying that their "continuing value" should be "critically reexamined" and that no secret operations can succeed "which are not backed by a broad national consensus."

Criticizing those words, a high former intelligence official told us that if a "national consensus" is needed as backing for a secret operation, then there can by definition be no such operations.

Sorensen has said he would not rule out all clandestine operations if he is confirmed as boss of the CIA. Yet, his outspoken condemnation of that part of the U.S. intelligence apparatus (minor compared to Soviet operations) has put the intelligence community here not only on guard but in genuine consternation about his inner convictions.

Hence, the dilemma of Carter, whose reputation for stubbornness will now be tested: Should he insist on pushing the nomination through a worried Senate and risk exposing the beleaguered CIA to another savage round of political battle? Or should he find a more hospitable perch to repay the first prominent New York Democrat to help his presidential campaign? The affidavit to the 1973 Ellsberg trial and its damaging effect on Sorensen's credibility as intelligence chief now makes that a most pressing question, the answer to which will reveal much about Jimmy Carter's crisis management.

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Del. Conf. Comment

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NEWS SERVICE

Date. 18 Jan

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DISTRIBUTION II

The attached are from today's Star.

Mary McGrory

The Compliments Came a Little Late

When Theodore C. Sorensen moved away from the false, and even stricken, cordiality of the senators and started for the dock, he was asked how he felt.

"Well," he said wryly, "Gary Gilmore and I. . . ." His voice trailed off.

He had had ample warning that the Senate Select Committee on Intelligence had turned into a firing squad. The only mercy he was being granted was the chance for a last word — and he had to wait for that.

His executioners wanted him to look the cameras in the eye and cry for the CIA. You would have thought that the "rogue elephant" agency was a battered child, such tenderness and solicitude was expressed for the "confidence" that it might not be able to summon for a director who was not one of its own.

None made reference to the CIA's criminal past. Sorensen's cavalier attitude toward classified documents — he freely admitted he took some home — had obviously driven all memories from their minds.

Nobody thought to mention that the CIA had shredded thousands of classified documents so that the country was kept in the dark about poisons and plots, illegal spying on American citizens, and its involvement in Watergate. The CIA has been completely rehabilitated in the eyes of its new "oversight" committee.

DOUBTS HAD dogged the appointment of John Kennedy's speechwriter from the first. The only Camelot survivor to be tapped for the top by Jimmy Carter is not a man of many friends, being stiff-necked and wintry.

But the things that the committee held against him were, in fact, the best reasons for confirming him.

He was a conscientious objector. Excellent. The CIA has been as violence-prone as a ghetto junkie. Sorensen might have led them along more cerebral paths.

He testified in the Ellsberg trial. The senators were appalled. Daniel Ellsberg was a troublemaker who had spilled the Pentagon Papers. Marvelous. Sorensen had struck a blow for disclosure.

As a defense witness, he freely testified that he had taken home from his White House service 67 boxes of documents, seven of them classified. Even some members of the firing squad admitted that the rules of classification are "ambiguous" and "opaque."

Sorensen noted that it was the custom in those pre-Watergate days for departing officials to take their papers with them. But while much has been made at the hearings of Griffin Bell of the "temper of the times" to explain his service to a segregationist governor of Georgia, not a single voice was raised — until after Sorensen had unexpectedly and safely withdrawn himself from contention — to point out that there was nothing illegal about it, or even, in that era, improper.

THE SUDDEN, massive failure of nerve among the Democratic senators was matched, apparently, in Plains. Carter did not wish to have blood on the floor during Inaugural Week. Although the decision was said to have been jointly arrived at, and Sorensen may well have wished to spare himself the ordeal of looking at the grim faces of Jacob Garn and Barry Goldwater for weeks on end, it was obvious that Carter did not want to take on the right wing on the sensitive subject of "national security."

The only unequivocally kind words the nominee heard before he bowed out were from New York's new senator, Daniel P. Moynihan, who made a graceful statement about Sorensen's affiliation at the time of the Kennedy assassination and called him "an extraordinary man."

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After Sorensen called it off, many senators seemed of the same mind. Republican leader Howard Baker, expressing annoyance that he had not known how the play would end when it began — he certainly wouldn't have said it was a "bad nomination" if he had known it was being withdrawn — pronounced him "brave and generous." Birch Bayh found him, when it was too late, "gutsy," and egregiously sought Sorensen's help in reforming the classification system.

SORENSEN SAID his fate showed that the intelligence community and the Senate are not ready to accept an outsider. George McGovern, who marched to the stand when it was over and took his place at Sorensen's side, said it showed that "the ghost of Joe McCarthy still stalks the land."

And what it means is that Jimmy Carter, while willing to take some heat from the left for his old friend Griffin Bell, is not ready to tangle with the right for his new friend, Ted Sorensen.

Now the CIA and its allies know their strength. And they know Jimmy Carter's weakness. It took very little to make him cave, once the scarewords of "national security" and "leaker" were decanted. They may veto his future choices until he comes up with the general or admiral of their dreams. A few glasses were doubtless raised at Langley to celebrate the rout of the the stranger who talked about "openness" and "accountability" and other dangerous notions.

Jimmy Carter may see in the Sorensen debacle deliverance rather than defeat. But if weakened and outnumbered Republicans, and a "demoralized" CIA, seeing how little it takes, decide to try again, he may come to rue the day.

Sorensen Story: 'Like Being Blind-Sided by a Truck'

By Lee Lescaze

Washington Post Staff Writer

Until last Thursday night, Theodore C. Sorensen believed that his nomination to head the U.S. intelligence community was opposed by only a small minority in the Senate.

"It was like being blind-sided by a truck," Sorensen said yesterday of his experience in watching the storm of opposition gather that led him to withdraw from consideration on Monday.

On Thursday, Sens. Joe Biden Jr. (D-Del.) and Howard H. Baker Jr. (R-Tenn.) received copies of affidavits Sorensen had provided in two trials involving the Pentagon Papers.

Baker had requested the affidavits from the Justice Department Jan. 10, according to an aide.

Biden learned that the Republican committee members were seeking to use the affidavits against Sorensen and obtained his own copy through an aide who knew a participant in the Ellsberg trial who had kept files, an aide said.

Biden thought that a Republican committee member was likely to spring the affidavits during Sorensen's confirmation hearing and sought to preempt the Republicans by giving his copy to Intelligence Committee Chairman Daniel K. Inouye (D-Hawaii) for distribution to all members.

That night, Inouye called Vice President-elect Walter F. Mondale to tell him that the nomination was in trouble. Mondale passed the word to Sorensen and President-elect Jimmy Carter.

Sorensen tried to contact all the members of the committee Friday. His conversations with those who were in town "et ineros conversations with those who were in town "were for the most, part friendly," he said. He said he did not realize that the nomination was in desperate trouble.

From his conversations, Sorensen said, he learned that "the affidavits were not the real reasons" for opposition to him.

What were the real reasons?

Sorensen is still not sure. The best explanation, he believes, is that "many little dirty streams flowed together to make one large one."

Several committee members agreed that no single issue turned the tide against the nomination.

"If you thought there was a piece missing, how do you think I felt?" Sorensen asked in a telephone interview.

"I thought only Goldwater and two or three other conservatives would be against me," he said.

Sen. Barry Goldwater (R-Ariz.) refused to see Sorensen at any time after his nomination was announced Christmas Eve. When Sorensen was special counsel to President Kennedy, Goldwater made an issue of the fact that Sorensen had registered for non-combatant status with his draft board.

Sorensen said he saw all 14 other committee members at least once and met twice with several.

A source in the Carter-Mondale transition headquarters conceded yesterday a failure to move swiftly to counter the damage being done by the affidavits.

They state that Sorensen took classified information with him when he left the White House and used it in writing his book, "Kennedy."

That, Sen. Gary Hart (D-Colo.) said yesterday, was translated into that Sorensen was a leaker. His registration for noncombatant status became that he dodged the draft. Hart said of the torrent of criticism, much of it anonymous, fired against Sorensen over last weekend.

Several Senate staffers said that Minority Leader Baker played a leading role in organizing the criticism among Republicans and they were critical of reporters for allowing senators to make criticisms anonymously.

"This was a time when names should have been revealed," one said.

Before the storm broke on Capitol Hill, conservative groups were working to defeat Sorensen.

Steven Some of the American Conservative Union said that conservative columnist John Lofton had been doing a lot of research on Sorensen and "he began to get the ball rolling" as soon as the nomination was made.

On Jan. 10, the same day Baker asked the Justice Department for copies of Sorensen's affidavits, right-wing Rep. Larry McDonald (D-Ga.) chaired a meeting under ACU auspices.

Staff members representing committee members Sens. Jake Garn (R-Utah) and Strom Thurmond (R-S.C.) attended with ACU chairman Stan Evans and other conservative spokesmen, Some said.

"From this meeting came the strategy," he added.

"We had four senators right off the bat," Evans said, "Goldwater, Thurmond, Garn and [Robert] Morgan [D-N.C.]."

Then, Some said, it was decided to approach more moderate senators like Baker. "Baker was lined up on Friday," he said.

Other members were "lined up" by the already convinced senators, Some said. "Sen. Baker is very effective and it was better at that stage for us to get out of it," he added.

Evans refused to take too much credit for forcing Sorensen out. "In retrospect and modesty," he said, "it's conceivable that the Sorensen thing would have fallen through if we hadn't lifted a finger."

The ACU testimony against Sorensen was going to be delivered by Frank McNamara, who came out of retirement for that specific task. McNamara, a former chief administrative officer of the Subversive Activities Control Board and staff director of the House Un-American Activities Committee, said the affidavits were not his only grounds for opposing Sorensen.

In the Senate Foreign Relations Committee yesterday, outgoing CIA Director George Bush was lauded by several members for his performance.

Sen. Hubert H. Humphrey (D-Minn.) suggested that Bush might stay on for a while in view of Sorensen's withdrawal. Bush said his plan is to leave office at noon Thursday.

Sorensen's plan is to leave New York today for a Caribbean vacation.

(9)

CIA OPERATIONS CENTER

NEWS SERVICE

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(COLBY)

WASHINGTON (UPI) -- FORMER CIA DIRECTOR WILLIAM COLBY SAID TODAY HE WAS APPROACHED BY "A POLITICAL FIGURE" TO JOIN A CAMPAIGN TO TORPEDO THE NOMINATION OF THEODORE SORESENSEN AS INTELLIGENCE CHIEF, BUT REFUSED.

SORESENSEN WITHDREW HIS NOMINATION BEFORE THE SENATE INTELLIGENCE COMMITTEE MONDAY SAYING, "IT WAS NOW CLEAR THAT A SUBSTANTIAL PORTION OF THE SENATE AND THE INTELLIGENCE COMMUNITY IS NOT YET READY TO ACCEPT...AN OUTSIDER WHO BELIEVES AS I BELIEVE."

COLBY SAID HE WOULD HAVE APPROVED OF JIMMY CARTER'S CHOICE TO HEAD THE CIA.

"I THINK HE HAD A NUMBER OF QUALIFICATIONS WHICH WERE QUITE IMPRESSIVE," HE SAID.

COLBY, WHO WAS DIRECTOR OF THE CIA FROM 1973 UNTIL HE WAS FIRED BY PRESIDENT FORD IN 1975, WAS INTERVIEWED ON THE NBC TODAY TELEVISION PROGRAM.

HE SAID HE DID NOT JOIN ANY MOVE AGAINST SORESENSEN.

"I DID NOTHING. SOMEBODY CALLED ME TO PARTICIPATE IN AN EFFORT TO BLOCK THE NOMINATION AND I REFUSED TO DO SO."

COLBY DECLINED TO IDENTIFY THE CALLER BUT SAID HE WAS "OUTSIDE THE AGENCY ENTIRELY...A POLITICAL FIGURE...AND I JUST DECIDED THAT I WAS NOT GOING TO PARTICIPATE IN THAT KIND OF EFFORT."

THE FORMER CIA CHIEF SAID THE CALLER "DIDN'T REALLY GO INTO ANY DEPTH" TO EXPLAIN HIS OPPOSITION TO SORESENSEN BUT, "I HAD SEEN SOME OF THE PUBLISHED MATERIAL ABOUT HIS (SOERSENSEN'S) BEING A CONSCIENTIOUS OBJECTOR AND THINGS OF THAT NATURE."

COLBY SAID THAT, AS AN "OUTSIDER", SORESENSEN MIGHT HAVE BEEN GOOD FOR THE CIA.

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DCI Confirmation
Sorensen

SUGGESTED SCHEDULE FOR DCI-DESIGNATE THEODORE C. SORENSEN FOR PERIOD PRIOR

TO CONFIRMATION

NOTE: This suggested schedule was prepared on the assumption that DCI-Designate Theodore C. Sorensen would wish to devote most of his time prior to confirmation in

- (1) familiarization with the structure and functions of the Intelligence Community as a whole and the role of the Director of Central Intelligence therein;
- (2) familiarization with the structure and functions of the Central Intelligence Agency;
- (3) preparations for his confirmation.

The following sequence of events is suggested for Mr. Sorensen when he arrived at CIA Headquarters building on/about 3 January:

--private meeting with Director George Bush after which they will be joined by Mr. E. H. Knoche, Deputy Director of Central Intelligence (DDCI) and [redacted], Deputy to the DCI for the Intelligence Community (D/DCI/IC). 25X1

--private meeting with DDCI Knoche.

--private meeting with D/DCI/IC [redacted] 25X1

--meeting with Mr. John F. Blake, Deputy Director for Administration (DD/A), for briefing on personal security arrangements (Mr. Robert W. Gambino, Director, Office of Security) and other administrative and personal matters of interest to the DCI-designate.

✓ --meeting with Mr. George L. Cary, Legislative Counsel (OLC), to discuss preparations for confirmation hearings, including arrangements for courtesy calls on certain senators and representatives.

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- walking tour and visits to facilities of the CIA Headquarters building (Operations Center, Office of Medical Services, Communications Center, Computer Center, Auditorium, Cafeterias, Library, Security Duty Office).
- meeting with Mr. Anthony A. Lapham, General Counsel (OGC), for briefing on legal authorities relating to the DCI, including Executive Order 11905, and legal issues of current importance.
- meeting with Mr. Andrew T. Falkiewicz, Assistant to the Director (A/DCI), for briefing on overall DCI information policy, CIA relations with the media and intelligence issues of current interest to the media (KCIA, Micronesia, etc).
- meeting with D/DCI/IC [] for briefing on Intelligence Community matters (CFI, budgets, IC Staff, etc.) assisted by [] Director, Office of Program and Budget Development (D/OPBD), [] USA, Director, Office of Policy and Planning (D/OPP), [] Director, Office of Performance, Evaluation & Improvement (D/OPEI). 25X1
- meeting with Mr. Richard Lehman, Deputy to the DCI for National Intelligence Officers (D/DCI/NIO), for briefing on the functions of National Intelligence Officers (NIOs), the production of National Intelligence Estimates (NIEs), and the background and significance of the current debate over the NIE on Soviet Forces for Inter-continental Conflict (NIE 11 3/8). 25X1
- meeting with Dr. Sayre Stevens, Deputy Director for Intelligence (DD/I).
- meeting with Mr. Leslie C. Dirks, Deputy Director for Science and Technology (DD/S&T).
- meeting with Mr. William W. Wells, Deputy Director for Operations (DD/O).
- meeting with Mr. John F. Blake, Deputy Director for Administration (DD/A).
- meeting with Mr. John H. Waller, Inspector General (OIG), for briefing on the functions of the CIA Inspector General and highlights of current cases of major importance.
- meeting with DDCI Knoche and Mr. James H. Taylor, Comptroller (O/COMPT), for briefing on CIA programs, budget and manpower, including relations with OMB.

- ✓ --meeting with Mr. Cary (OLC) for briefing on CIA relations with Congress and the role of the DCI with Congress.
- meeting with Mr. Benjamin C. Evans, Executive Secretary (EXEC/SECY), for briefing on the organization of the DCI's office and the functions of the Executive Secretary.
- visits to CIA facilities outside Headquarters building to be arranged during meeting with DDCI Knoche.
- visits to headquarters of other components of Intelligence Community to be arranged during meeting with D/DCI/IC

25X1

and buildings to the Sunair Home for Asthmatic Children.

He has established the Groman Mortuaries Rabbinical Loan Fund at Hebrew Union College, given a classroom at Hillel Academy in Los Angeles, a community social room to the Farband Community Center in Dimon, Israel, a room at Mt. Sinai Hospital, athletic equipment to the Israel Army, and planted two miles of trees in Israel near the Gaza Strip. In memory of William Tamkin, Mr. Groman has contributed laboratories to the Massachusetts Institute of Technology, Boston, Mass. He has shared so much with so many that it is almost impossible to memorialize all of Harry Groman's generous gifts. Because of the quality of his achievements in the service of his fellow men and women, I ask the Members to join me in paying tribute to this most valued citizen, Harry Groman.

THE LESSON OF THE FRENCH GOVERNMENT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 17, 1977

Mr. LEHMAN. Mr. Speaker, in 1972, the world was shocked by the cruel and vicious attack on Israeli athletes at the Munich Olympics. Eleven Israeli civilians participating in the international sports competition met their deaths at the hands of Palestinian terrorists.

The individual most responsible for this horrible crime, Abu Daoud, was recently arrested in France. His extradition was requested by both Israel and Germany. Yet unbelievably, the French Government refused both requests and allowed him to return to the Arab world to plot more crimes of terror against innocent civilians.

Men and women of conscience throughout the civilized world, including many citizens of France, have joined to denounce the French Government in giving in to Arab demands for the release of Abu Daoud.

We now have news of a second act by the French Government, which shows equal if not greater insensitivity to the cause of world peace and justice. I speak of the announcement that the French Government has agreed to sell 200 of its most advanced warplanes to Egypt.

When I visited Egypt 2 months ago, I found a country overwhelmed by staggering economic and health problems. The vast majority of the people live in abject poverty. These people need peace and economic development, not warplanes.

There is an important lesson to be learned from the French Government's release of the Palestinian terrorist. When faced with Arab demands, the French Government had little hesitation in ignoring its international extradition agreements and the 1976 Anti-Terrorism Treaty which it had signed.

As movement continues toward a settlement in the Middle East, both Israel and the United States will learn from

this lesson the hazards of relying on international agreements and outside guarantees.

THEODORE SORENSEN WITH-DRAWS AS CIA DIRECTOR-DESIGNATE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 17, 1977

Mr. McDONALD. Mr. Speaker, during the past 3 weeks I have made known my strong and principled criticism of the nomination of Theodore Sorensen as director-designate of the Central Intelligence Agency. I said that I believed his nomination was against the best interests of the United States, and my beliefs were reflected by many nationally recognized conservative groups and individuals, by people from the labor movement, by former members of the intelligence community, and by veterans organizations who were anxious to help me stop this nomination.

We involved ourselves in no whispering campaign; we examined Mr. Sorensen's public record and prepared testimony to be delivered in public before the Senate Select Committee on Intelligence.

In view of Mr. Sorensen's withdrawal of his name for consideration, there was no opportunity to present this testimony. The possibility exists that rumor and innuendo may be attached to our efforts; and to preclude such wrong thinking and to present the documentation of the stand we took, I attach a copy of this testimony for the information of my colleagues:

TESTIMONY OF REPRESENTATIVE LARRY McDONALD OF GEORGIA, BEFORE THE SENATE SELECT COMMITTEE ON INTELLIGENCE, THEODORE SORENSEN NOMINATION, JANUARY 17, 1977.

Mr. Chairman; Members of the Senate Select Committee on Intelligence: I am Larry McDonald, Member of the U.S. Congress for the 7th District of Georgia.

I have asked for this opportunity to testify on the nomination of Theodore Sorensen as Director of the Central Intelligence Agency only after a great deal of thought. All of us on both sides of the Hill, and on both sides of the aisle naturally respect the rights of a new President to select his own team. In most cases where we have disagreed with the choice of a President it has not been appropriate to ask that the nominee not be confirmed.

However, in a case where the post is high and sensitive, such as that of Director of the CIA, and I believe the designee is both unqualified and a danger to the security of the United States, I am compelled to speak out.

The CIA serves as the eyes and ears of the President of the United States throughout the world. CIA officers and their agents provide valuable information to our government sometimes at the risk of their lives. In a complex world, faced with the activities of hostile intelligence services, our CIA plays a role in the defense of the United States.

The Director of the CIA must be a man with absolute loyalty to the U.S. and must have unquestionable integrity. He should be

thoroughly experienced in the technique and principles of intelligence gathering. The Director of the CIA should have proven administrative and leadership capabilities. It is vital that he should be a person whose appointment will improve the morale of a government agency that in recent years has suffered serious setbacks and difficulties.

I am speaking out in the case of Mr. Sorensen not merely because I disagree with him about matters of public policy, but because I believe that his confirmation would be detrimental to the best interests of our country.

Theodore Sorensen is without a doubt the least appropriate person to be proposed as Director of the CIA.

In addition to his widely recognized lack of administrative experience, he has an equally obvious lack of experience with matters relating to intelligence gathering. Further, serious questions regarding his personal integrity, his discretion and scholarship exist which further disqualify him for this post.

I must share with you the concerns of many loyal and patriotic Americans that Mr. Sorensen, before and during the Korean war, was a conscientious objector. It is my understanding that he retained this status until he had reached an age when he was no longer eligible for military service. By that time he was already on the White House staff.

As late as 1970, when the war in Vietnam was at its height, Mr. Sorensen brought suit against the U.S. Government on behalf of a man who also sought to limit his military obligations.

Mr. Sorensen indicated at that time he was not merely serving as an attorney, but was also acting as an advocate for a program to sabotage the draft. In this endeavor he collaborated with members of the National Lawyers Guild, the Institute for Policy Studies, and the American Civil Liberties Union.

The National Lawyers Guild has been cited by the House Committee on Un-American Activities as the "forerunner, legal bulwark of the Communist Party." It has openly boasted of its support for armed struggle by terrorist groups in the United States, and has been a major U.S. contact for Marxist-Leninist terrorists throughout the world.

The Institute for Policy Studies, an ultra-left think tank based in Washington, D.C., seeks to bring about revolutionary change in our country by a variety of means including political subversion and terrorism. Over the past two years I have provided evidence to my colleagues in the House concerning the role of this institute as a support apparatus for international and domestic terrorist and violence-oriented groups.

The American Civil Liberties Union, which includes both serious defenders of civil liberties and a wide range of irresponsible left-wing elements including Marxist-Leninist totalitarians, stated at the very time when Mr. Sorensen was working with them on that draft case that it had made "the dissolution of the Nation's vast surveillance network a top priority."

An example of Mr. Sorensen lending his support to those who would betray our country was shown in his 1973 testimony on behalf of Daniel Ellsberg and Anthony Russo who stole and disseminated a collection of classified government documents that came to be known as the Pentagon Papers.

In an affidavit made available to Ellsberg's lawyer, Leonard Boudin, whose firm has since 1961 continuously represented the brutal communist regime of Fidel Castro in Cuba, Mr. Sorensen made a number of highly significant statements.

He affirmed that "I removed 67 cartons of papers, documents and files of all kinds (7 cartons of which were classified) from my office in the White House upon my departure in February of 1964."

Subsequently, Mr. Sorensen used these documents to write a book for his personal

profit, and to obtain income tax deductions. Our experiences with former President Nixon, and more recently with Secretary of State Henry Kissinger, have demonstrated a strong belief on the part of the American people and their elected representatives that documents produced on government time and paid for by the government belong to the Government, and not to any private individual.

In the case of President Nixon and Secretary Kissinger, the documents concerned were produced by them; in the case of Mr. Sorensen, he has admitted that the documents were produced by others and had come into his possession by reason of his White House post.

In his Pentagon Papers affidavit, Mr. Sorensen stated that he was "very familiar with the United States Government's military, diplomatic, and intelligence operations, policies and practices . . ." He also said that "I regard myself as a devoutly loyal citizen" (and we presume he meant of the United States). Yet, Mr. Chairman, when Mr. Sorensen was called to the stand by Ellisberg's lawyer, he reviewed two pieces of one volume out of many, many parts, and stated on oath that the release of this material created no security hazard to the United States.

Mr. Sorensen was shown Volume IV, B.5 of the Pentagon Papers entitled "Evolution of the War, The Overthrow of Ngo Dinh Diem, May to November 1963." On oath, Mr. Sorensen answered "No" to the question, "Could the information in the exhibit have been used to cause injury to the United States in relation to the national defense if released in 1969."

To the further question, "Could the information in the exhibit, if released in 1969, have been used to the advantage of a foreign nation with respect to the defense of the United States," Mr. Sorensen replied, "Certainly not."

This view was not shared by either the Department of Defense or the Armed Services Committee of the U.S. House of Representatives. They deleted from the text, printed by the Committee in 1971, pages XV, XVI, XXII, XXIV, 42, 43 and 61 from the very section of the Pentagon Papers that Mr. Sorensen, as a self-proclaimed "expert," specifically considered innocuous.

But those documents contained copies of cable messages which had been transmitted in code, including some marked "Top Secret for the President's Eyes Only." A foreign intelligence service monitoring our coded transmissions could compare the coded versions with the clear text and be immensely aided in its attempts to break our cryptographic secrets and techniques.

In yet another affidavit in the Pentagon Papers case, Mr. Sorensen indicated that our country was not harmed, but actually benefited from the theft and publication of these documents. Yet Part VI, C. 1, 2, 3, and 4 of these documents were not published by the Armed Services Committee of the House of Representatives because to do so would have identified valuable technical sources behind the Iron Curtain.

In view of this, how can our country have possibly benefited by the theft and dissemination of the Pentagon Papers other than in the highly subjective view of Mr. Sorensen and his friends?

As part of his law practice, Mr. Sorensen has represented several foreign governments include Zaire, the former Belgian Congo; Iran; Sierra Leone; and the Canadian province of Newfoundland as their agent in the United States. At a press conference on December 22, 1976, Mr. Sorensen said that he had not registered as a foreign agent on the grounds that "there is an exemption for legal services under the Foreign Agent Registration Act."

However, I believe that the exemption to which Mr. Sorensen has claimed is confined to those "who engage in the legal

representation of a foreign principle." This means that the exemption is for those whose sole activity on behalf of a foreign principle is in the courts or before administrative tribunals.

Yet in August 1969, in a televised appearance on the David Frost Show, Mr. Sorensen said, "I'm not a trial lawyer; I don't get involved in that kind of problem."

Serious doubts exist regarding Mr. Sorensen's integrity. Some of the doubts were created by his own statement in his 1965 book, "Kennedy," in which he admitted inventing quotations and attributing them to our founding fathers.

Mr. Chairman, an ability to do creative writing is not necessarily an asset to the Director of the CIA. The ability to fully and truthfully report information gathered from a variety of sources would be seriously impaired by having too creative an imagination.

Further doubts on Mr. Sorensen's integrity were created as a result of his December 22, 1976 press conference in Plains, Georgia, when he said that he served on the Executive Committee of the National Security Council under President Kennedy.

However, in a 1973 Pentagon Papers affidavit, Mr. Sorensen stated, "I attended, after the Bay of Pigs, virtually all of the formal meetings of the National Security Council. I was not a statutory member but was asked by the President to sit in and observe. I rarely participated actively in these meetings but was asked by the President to give him my views in informal get-togethers at the end of the day." This is hardly holding the position of a member of the NSC Executive Committee, and indicates a lack of candor and qualifications by Mr. Sorensen.

Mr. Chairman, the entire world is watching this committee. Your decision on Theodore Sorensen will affect not only the future of the CIA, but the relationships between our country and the other nations of the free world. Confirmation of Mr. Sorensen, a man not qualified to lead the CIA and whose lack of integrity and scholarship is known to all, will erode still further the ability of friendly nations to cooperate with us in matters of mutual security.

In the face of world wide terrorist activities, our country needs the cooperation of friendly intelligence services in gathering information to cope with this serious threat. If we are denied this cooperation because Mr. Sorensen had been allowed to assume this sensitive position, the Senate of the United States may be viewed to blame for not exercising its responsibility on such a vital matter.

In summation, Mr. Chairman, when considering the positive qualities required for the post of CIA Director, Mr. Sorensen lacks the assets of expertise in the principles and techniques of intelligence gathering, of any administrative experience, and of any demonstrated leadership qualities.

In negative qualities, I believe Mr. Sorensen's record demonstrates that he lacks integrity and scholarship, and that he is a highly political and partisan person who has consistently demonstrated a reckless disregard for America's needs in foreign policy and intelligence.

On these grounds, I respectfully request that Mr. Sorensen not be confirmed as Director of the Central Intelligence Agency.

BLACK LUNG CLAIMS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 17, 1977

Mr. RAHALL. Mr. Speaker, I have received numerous complaints from my constituents regarding the black lung benefits that the law provides. These

letters express the outrage of good and decent people who have devoted most of their lives and health to the mining of West Virginia coal resources, receiving precious little in return.

And finally, the families of these miners of deteriorated health suffer greatly, due to the loss of income which social security and retirement payments do not cover.

For a nation reputed to be kind and compassionate, I believe we all should go much further than we have in meeting the needs of the miners who have given so much of themselves in their life of work.

In talking with my colleagues, I am convinced that the problem encountered by my constituents are similar to the many difficulties faced by others who live and work in coal mining states. The fact that we are relying on coal more and more as a way to help meet our domestic energy crises serves to highlight the health problems of those who extract it from the Earth.

The Labor Department's process for reviewing black lung claims is grossly inefficient. From June 1973 to December 1976, only 3,800 black lung claims were approved out of the 104,000 submitted to the Department. At the present time, Labor Department figures show that 51,200 black lung claims have not yet been acted upon.

Mr. Speaker, because there is a national problem, I am today introducing legislation that will provide temporary authority for additional qualified individuals to hear and determine claims.

UKRAINIAN INDEPENDENCE DAY

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 17, 1977

Mr. BROOMFIELD. Mr. Speaker, on January 22 millions of Ukrainian-Americans will mark an Independence Day, devoid of the dignity, pride, and sense of accomplishment so characteristic of our own Bicentennial. Instead, they will celebrate a distant memory, a brief moment in the aftermath of World War I when the Ukraine knew independence. They will demonstrate to the world that despite more than half a century of Soviet depression, Ukrainians have maintained a sense of ethnic identity and an undiminished yearning for independence.

It is ironic indeed, Mr. Speaker, that the Ukraine sits today as a puppet member of the United Nations, perched on the knee of the Soviet Union—the very nation that snatched away Ukrainian freedom 54 years ago. We can get some idea of the Soviet notion of Ukrainian "independence" by comparing the parallel voting records of these two United Nations members.

The quest for an independent Ukraine is hundreds of years old; it has been frustrated for decades by Soviet imperialism, but never abandoned. The Ukraine's sense of identity, its determination to be free, is nurtured by the steadfastness of the overseas Ukrainian community. Ukrainian-Americans have

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DCI (12)
Confirm

ADDENDUM TO JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Monday - 17 January 1977

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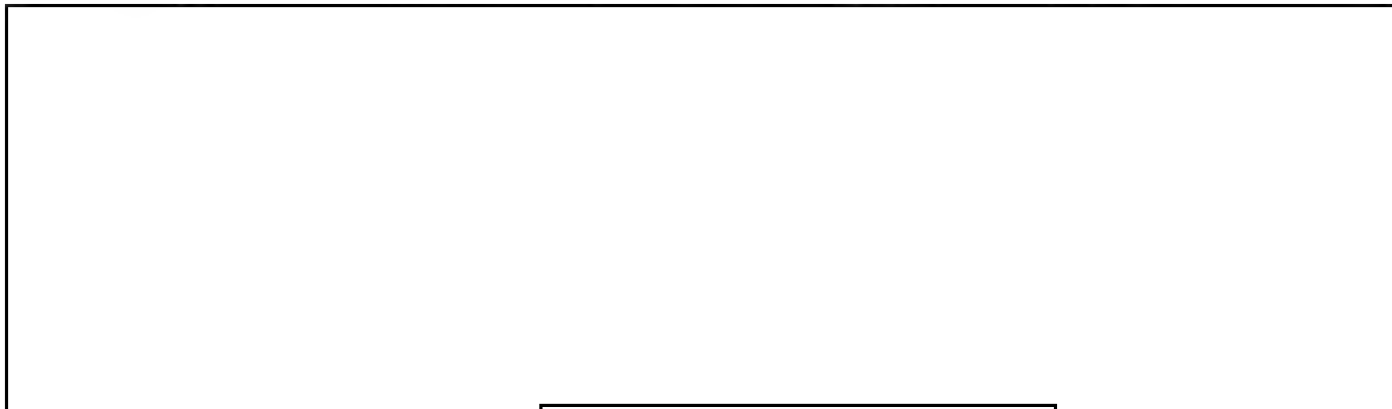
1. [] BRIEFING George Cary, []
A/DDCI, and I attended Mr. Sorensen's abbreviated confirmation hearing
before the Senate Select Committee on Intelligence.

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2. [] LIAISON Delivered to Mike Madigan, Minority
Counsel, Senate Select Committee on Intelligence, the Committee's transcript
of Mr. Sorensen's testimony before the Church Committee on 21 July 1975.

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for
GEORGE L. CARY
Legislative Counsel

cc:

A/DCI

Ex. Sec.

DDI DDA DDS&T

Mr. Lapham

Mr. Falkiewicz

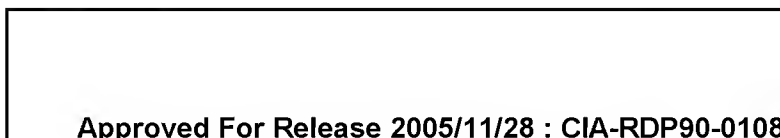
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MEMORANDUM OF LEGAL ISSUES

From the founding of the Republic, as a matter of principle and uniform practice, White House papers have been treated as the personal property of the President and his aides, and have been removed from the White House upon their departure from office. The practice began when George Washington removed all of his papers, and was followed continuously thereafter. [National Study Commission on Records and Documents of Federal Officials, (Honorable Herbert Brownell, Chairman), Public Hearings Background Memorandum, page 60, et. seq.]

Congressional ratification of this practice was evidenced by repeated appropriations of public funds to buy Presidential papers from their heirs. For example, Congress appropriated funds to buy Presidential papers of Presidents Washington, Jefferson, Madison, Monroe, Jackson, Polk and Tyler. [Library of Congress, Congressional Research Service, "Ownership of Presidential Papers" (1974), pages 3-4.] The concept of private ownership of such papers also received judicial endorsement when Mr. Justice Story of the Supreme Court, sitting as a circuit judge, held that the papers of George Washington were private, not public, and subject to copyright protection. [Folsom v. Marsh, 9 Fed. Cas. 342 (No. 4901) (C.C.D. Mass. 184)]

Further Congressional acquiescence in the concept that such papers are private and not public is reflected in the Presidential Libraries Act of 1955, which directed the Administrator of General Services to

negotiate for and accept donations of Presidential historical materials. As the Library of Congress Research Service found in reviewing the legislative history of this Act: "In the hearings which led to the enactment of the Presidential Libraries Act in 1955, the Administrator of General Services testified that as a matter of ordinary practice, the President has removed his papers from the White House at the end of his term. This, he testified, was in keeping with the tradition and the fact that the papers are the personal property of the retiring Presidents. Accordingly, he indicated that the proposed legislation was not mandatory in nature and would not bind future Presidents. Rather, the decision to make the gift would continue to rest with the former President and his heirs. Testimony of Edward F. Measure, Administrator of General Services, in Hearing at 14-15." [Library of Congress, Congressional Research Service, op. cit., p

The private ownership concept and the practice of removing such papers upon termination of White House tenure, continued, without interruption, and was the universally accepted practice when President Kennedy entered the White House and Mr. Sorensen began his White House service. Indeed, as John Eisenhower recently stated, "The only material left by President Eisenhower for President Kennedy was a satchel containing a series of orders and instructions to be of assistance in the event of nuclear attack or national crisis."

This historical practice was summarized as follows in 1971 by Herman Kahn, the former Assistant Archivist of the United States in charge of Presidential Libraries: "Probably the best proof that the papers of the Presidents and their aides are not official records, is that there are not now nor have there ever been in the White House any files that pre-date those of the incumbency of the current President and his aides. Nor are they any such papers in the National Archives. Following their removal from the White House it has been the universal practice for Presidential aides either to keep in their own office or house the files created during their White House employment or to give them to an appropriate library or other depository."

Under governing law at the time of Mr. Sorensen's gift, it was totally lawful and appropriate that the donor take a tax deduction for the transfer of such documents. Numerous government officials over the years have taken such tax deductions, including Governor Adlai Stevenson, Arthur Schlesinger and J. Kenneth Galbraith. In Mr. Sorensen's case, his ownership of the documents in question was confirmed by the government archivist who originally requested the donation. The Internal Revenue Service, after full audit, approved of the deduction, and Mr. Sorensen's accountant settled with the Internal Revenue Service the valuation of the papers.

It was only after the events in question here that Congress changed the law to preclude such deductions. And it was not until

1974, ten years after the events in question here, that Congress made a limited change in past law and practice concerning ownership and removal of such papers by adopting the Presidential Recordings and Materials Preservation Act. However, that Act was limited solely to records and tapes created by the Nixon Administration -- and not any Administration prior or subsequent thereto.

To cite just a few of the precedents with respect to removal and donation of papers: Judge Samuel Rosenman, who served as Special Counsel to Presidents Roosevelt and Truman, removed and donated his papers to the Roosevelt and Truman libraries, as did Roosevelt aides Harry Hopkins and Louis Howe. Clark Clifford, President Truman's Special Counsel, took his papers, and donated them to the Truman Library. Sherman Adams, Eisenhower's Special Counsel, removed his files and donated them to the Dartmouth College Library. And Mr. Sorensen's colleagues, McGeorge Bundy, Robert McNamara, Dean Rusk, Douglas Dillon, Kenneth Galbraith and Arthur Schlesinger took their files and donated them to the Kennedy Library.

In almost every case, these papers included classified documents. For example, a brief review of the tables of contents attached to gifts of papers deposited in the Kennedy Library reveals that donations of papers by the following individuals included classified documents: McGeorge Bundy, National Security Adviser to the President; Robert McNamara, Secretary of Defense; Douglas Dillon, Secretary of the Treasury; Dean Rusk, Secretary of State; and Presidential Aides Arthur Schlesinger, J. Kenneth Galbraith, and Walter Heller.

No statute, rule or precedent precluded a government official from having reference to classified documents or information in writing books or memoirs. Indeed, since officials carry such information in their heads, they are always in a position to draw on it. The current attacks being made on Mr. Sorensen in this regard could as easily have been levelled against all of the other great memoir writers of recent history.

A quite recent example is President Ford. On November 21, 1973, in testimony before the House Judiciary Committee considering his confirmation as Vice President, President Ford said that in his book, Portrait of the Assassin, he drew upon highly classified papers of the Warren Commission and revealed information from at least two "Top Secret" documents. The Committee did not express concern as to the propriety of Mr. Ford having had such "Top Secret" papers in his possession while writing his book. (See transcript of the House Judiciary Committee hearings of that date.)

The only laws in effect, at the time Mr. Sorensen wrote his book, governing the use of classified information were the espionage statutes which prohibited: a) the use of national defense information with the intent of causing injury to the United States, or to confer an advantage on a foreign government (18 U.S.C. 8793, 794); b) the release of classified communications codes (18 U.S.C. 798); or c) the disclosure of classified security information to foreign governments (50 U.S.C. 8783).

It is not suggested by anyone that any of these provisions were violated. Nor has it ever been suggested, in the decade since Mr. Sorensen's book was published, that the book disclosed any classified security information. In fact, the relevant portions of the book were submitted in advance to McGeorge Bundy, National Security Adviser to the President, who confirmed that there were no inappropriate disclosures.

The only regulation governing the use and storage of classified information received by White House aides was Executive Order 10501, which provided that the custodian of classified information had responsibility for providing for its secure storage and handling, and for following procedures to insure that unauthorized persons not gain access. Whatever documents Mr. Sorensen required for his book were released to him by the custodian of his papers, the General Services Administration, and no suggestion has ever been made that he gave unauthorized persons access to them.

The General Services Administration acted in accordance with established practice in permitting Mr. Sorensen to use his papers at home. Indeed, government officials frequently work at home, and former officials and generals, drawing on their papers, have often written their memoirs at home or in their private offices.

Sorensen Image Cost Him Job

By Henry S. Bradsher
Washington Star Staff Writer

The resistance to Theodore C. Sorensen by some intelligence officials and the dislike of him by many conservatives forced him to withdraw from consideration as head of the U.S. intelligence apparatus. But it leaves one question unanswered.

The question is how important are a man's personal views in determining his qualifications to be CIA director — a post that is supposed to be used to provide objective information to the rest of the government, rather than to make policy.

Sorensen told the Senate Select Committee on Intelligence yesterday that personal opinions should not be the decisive factor. President-elect Carter chose him for the job largely because of his analytical ability, not his opinions.

Sorensen was considered too pacifist, too liberal and too much an outsider to the intelligence business to be acceptable to an agglomerate of opponents. He decided not to fight this opposition.

There are, however, some voices in Washington who complain that the intelligence community is too militaristic, too right-wing and too ingrown. A fight might still occur over the next nomination that Carter makes to the dual job of heading the community and being CIA director.

SORENSEN TOLD THE committee that he favors "a foreign policy that prefers, where possible, the risks of peace to the risks of war." Moral and legal standards should be applied to national security decisions, but the intelligence director should "provide leadership . . . and objective intelligence, not policy, to the President. . . ."

"Critics prefer to view this post as part of the national security decision-making apparatus and prefer in that post someone with policy commitments more like their own," Sorensen declared.

It is clear, he said, "that a substantial portion of the United States Senate and the intelligence community is not yet ready to accept as director of Central Intelligence an outsider who believes as I believe. . . ." His effectiveness as director would be handicapped even if he won Senate approval, Sorensen said.

Sources in the intelligence community said CIA resistance to him was partly based on a belief that Sorensen's basic views are opposed to the mission of intelligence and would therefore cripple the organization.

SOME CIA OFFICIALS also reportedly feared that Sorensen would have difficulty winning the cooperation of hard-line Pentagon intelligence men, who have recently been outspoken in their dissent from some judgments on Soviet military preparations and plans, and without cooperation the CIA-Pentagon relationship would endanger intelligence work.

Within the Pentagon, sources said, there was an adverse reaction "to having a conscientious objector as their supreme leader." Sorensen was given in 1948 a draft status in a non-combatant capacity, but he said yesterday his "preference for personal non-violence" had never inhibited his policy judgments.

"A lot of Pentagon intelligence officers were appalled at the idea of having him as director of Central Intelligence — and a lot at the CIA, too."

one source with high-level connections to the community said.

Sorensen told reporters that it had "become apparent that some individuals in the intelligence community preferred someone of other views." How had it become apparent? Sorensen paused, searching for words. "One senses those things," he replied.

HE PRAISED THE CIA people with whom he had worked in recent weeks in preparation for taking over as director. Did this imply that the resistance came primarily from Pentagon intelligence officers? Sorensen refused again to point a finger, replying, "Well, not really."

Political opposition from outside the intelligence community came from conservatives. The American Conservative Union claimed last night that it had organized the opposition which forced Sorensen to back down, but there were others active in digging out material on him that sparked last weekend's storm of criticism.

The union said it opposed Sorensen because he stole secret documents. It circulated last week affidavits in which Sorensen explained that many government officials took documents with them when they left government, and his were packed by an official archivist.

Behind this, however, some Capitol Hill observers saw an attack on Sorensen for his liberal views and his role in the John F. Kennedy White House.

The only witness who testified yesterday before the committee chairman, Sen. Daniel K. Inouye, D-Hawaii, adjourned the hearing was Sen. George McGovern, D-S.D., on behalf of Sorensen. The attack on him "shows that the ghost of Joe McCarthy still stalks the land," McGovern said.

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

15 January 1977

The Honorable Daniel K. Inouye
Chairman, Select Committee on
Intelligence
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

In connection with his nomination to be Director of Central Intelligence, Mr. Theodore C. Sorensen has provided me with a list of securities and other financial assets owned by him, his wife and his minor daughter.

All investments owned outright by Mr. or Mrs. Sorensen and those for which Mrs. Sorensen is custodian for their minor daughter, Juliet, will be transferred to blind trusts. The trust instruments are expected to be executed by 20 January 1977, and these instruments will satisfy the criteria prescribed on page 2 of the conflict of interest policy guidelines issued by Governor Carter, applicable to persons to be nominated for office by the Carter-Mondale Administration. A copy of those guidelines is enclosed.

Juliet Sorensen is the beneficiary of a trust which holds shares in two mutual funds. If the Committee so requires, the trustee will be asked to take any action within his power to convert this to a blind trust or otherwise assure that its holdings cannot result in a conflict of interest for Mr. Sorensen.

In addition to the investment assets mentioned above, Mrs. Sorensen is the beneficiary of a testamentary trust over which she has no control.

That trust owns stock in one corporation, Exxon, [REDACTED]
[REDACTED] Mrs. Sorensen is prepared to request the trustee to dispose of the Exxon shares held by the trust, should that action be required by your Committee.

Under the circumstances, it is my opinion that the financial interests of Mr. Sorensen and his family create no conflict of interest that stands in the way of his nomination to be Director of Central Intelligence. Should the testamentary trust of which Mrs. Sorensen is a beneficiary continue to hold the Exxon shares during Mr. Sorensen's term of office, or should that trust



acquire equity interests in other corporations with which the Agency is doing business, Mr. Sorensen would of course be subject to the relevant requirements and restraints set forth in 18 U.S.C. §208.

Sincerely,

[Redacted Signature]

Anthony A. Lapham
General Counsel

STAT

Enclosure

OGC:JDM:ish

Distribution:

Original - Addressee w/att

1 - OLC w/att

1 - OGC w/att

CARTER-MONDALE TRANSITION GROUP
POLICY GUIDELINES
CONFLICTS OF INTEREST; FINANCIAL
DISCLOSURE; AND RESTRICTIONS FOLLOWING
GOVERNMENT SERVICE

It will be the policy of the Carter-Mondale Administration to appoint and nominate for appointment, only persons of high ability who will carry out their official duties without fear or favor and with an equal hand, unfettered by any actual or apparent conflicts of interests. To decree that no person can have any financial interests other than a salary from the Government would seriously limit the ability to recruit the most qualified persons. The Carter-Mondale Administration will require full disclosure of all continuing affiliations and of assets and liabilities of nominees and their immediate families. It is hoped that except in rare circumstances divestiture causing severe tax burdens will be unnecessary if the present laws and regulatory framework are diligently and fairly administered.

The following guidelines pertain to the assets and liabilities of a nominee, the spouse of the nominee, and the nominee's minor child or children, partner, or any organization in which the nominee continues to serve as an officer, director, trustee, partner, or employee while in the government service or any private organization with which the nominee has negotiated or has any arrangement concerning prospective employment.

All nominees will be expected to comply with all relevant statutes (particularly 18 U.S.C. Section 208) and the rules and practices of the particular Department or Agency served.

If the person is nominated to a Level I or II position divestiture should occur if compliance with the provisions of 18 U.S.C. Section 208 indicates a conflict requiring disqualification from action for the Government more than rarely. Nominees for positions at Level III and other positions in the Government should require divestiture because of conflicts arising under 18 U.S.C. Section 208 only if use of disqualification will seriously impair the capability of the officer to perform the duties of the office to which nominated.

Beyond the requirements of 18 U.S.C. Section 208, persons nominated to positions at Level I or II should divest holdings and liabilities where the nature of the holding or liability is such that it will be broadly affected by governmental monetary and budgetary policies. Generally excepted from requirements of divestiture (unless the particular position indicates continuing conflicts arising in government service with respect to a particular interest) will be made for:

- a. real estate interests whether in the form of ownership of land or participations in partnerships.
- b. savings certificates and accounts and U.S. and other governmental securities.
- c. other holdings which are diversified; e.g. less than a 1% holding of a well-diversified mutual fund or a total of not more than approximately \$500,000 invested in diversified assets.

Blind trusts will be recognized as appropriate methods of divestiture where divestiture is required provided:

- a. the trustee is truly independent;
- b. the assets transferred in trust are either cash or diversified assets;
- c. the trustee is given entire discretion and express direction to sell or buy without discussion with the government officer or anyone close to such officer and the only reports given to the government officer are the schedules necessary to file with income tax returns (which schedules do not list anything more than totals of taxable items from the trust).

The attention of nominees will be directed to the provisions of 18 U.S.C. Section 209 prohibiting receipt of any compensation for government service from any party other than the United States. While the matter of payments for services prior to entry into government service is properly addressed by legal counsel to the appointee and the organization making the payment, the following general guidelines seem appropriate:

- a. If there is a pre-existing established plan of the particular organization to reward past service, obviously such plan can be recognized and followed.

- b. If there is no pre-existing established plan of the particular organization it is suggested that a payment in excess of 6 months of salary or in excess of a range of \$50,000 to \$75,000 would need careful examination.

In all events, it is expected that payment of any severance benefits will be completed prior to the nominee's taking office in the Government or within a reasonable time thereafter and that a copy of a favorable opinion of counsel to the nominee and the organization making the payment that it is lawful will be furnished.

While 18 U.S.C. Section 209(b) allows continuing participation in a bona fide pension, retirement, group life, health or accident insurance, profit sharing, stock bonus, or other employee welfare benefit plan maintained by a former employer, nominees will be asked generally to exercise any stock options prior to commencement of government service (unless, because of the requirements of the Securities Exchange Act, such exercise should occur within a reasonable period after beginning government service in which case the government officer may exercise within such limited period, providing other guidelines are followed concerning conflicts of interests as above stated). Nominees will also be asked not to have contributions made to profit sharing plans by former employers based on earnings of the former employer after the government officer takes office.

Deviations from the foregoing guidelines will only be made with the express consent of the President-Elect with respect to Level I and II appointments and by heads of departments or agencies with reference to other appointments. The reasons for the deviations will be made public.

It is proposed to ask appointees to enter into a letter of commitment, a copy of which is attached, which, in several respects calls for the disclosure of financial information beyond the requirements of existing law and regulations. It is contemplated that the financial disclosure requirements will be made subject to an Executive Order shortly after the new Administration takes office. The attached letter of commitment also describes certain restrictions requested of nominees following government service. Shortly after the new Administration takes office Congress will be requested to take action along the lines spelled out in the attached letter of commitment.

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It will be the policy of the new Administration to encourage every Department and Agency of the Government to advise every new employee of existing laws and regulations relating to conflicts of interests and to have a prior screening of such conflicts at the time of appointment. It will be a further policy to encourage Departments and Agencies to institute procedures for continuing policing of conflicts.

It is the objective of the new Administration to avoid any conflict which could in any way influence any government officer except in the even interest of all the people.

MEMORANDUM FOR: William G. Miller

Staff Director, Senate Select Committee

on Intelligence

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We have found it necessary to modify our conflict of interest certification forwarded to you on the 13th. The attached letter addressed to the Chairman by me and dated 15 January is to be substituted for my letter of 13 January. Please get it to the Senator and take what other action may be necessary.

STAT

Anthony A. Lapham

General Counsel

Central Intelligence Agency

Date

FORM 101 USE PREVIOUS EDITIONS

Approved For Release 2005/11/28 : CIA-RDP90-01089R000100100002-0

TRANSMITTAL SLIP		DATE
TO: OLC		
ROOM NO.	BUILDING	
REMARKS:		
<p>EYES ONLY - See in <i>file - pls place file on Sorum's confirmation along w a copy of the transcript of the hearings</i></p>		
FROM:		
ROOM NO.	BUILDING	EXTENSION
		26 JAN 1977

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

(47)

RADIO TV REPORTS, INC.

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4435 WISCONSIN AVENUE, N.W., WASHINGTON, D.C. 20016 244-35

(17)

FOR PUBLIC AFFAIRS STAFF

PROGRAM News Special STATION WETA TV
PBS Network

DATE January 17, 1977 11:15 AM CITY Washington, D. C.

SUBJECT Impromptu Press Conference

Q: Mr. Sorensen, could we -- could we ask you at what point this morning did you decide to withdraw your resignation [sic]?

THEODORE SORENSEN: This is a decision that has been evolving over the weekend.

Q: Did you make it while you sat here today, or had you known you would withdraw prior to your entrance here this morning?

SORENSEN: I knew prior to my entrance.

[Confusion of voices.]

SORENSEN: At approximately two minutes to ten this morning.

We have an audio problem here.

Q: [Inaudible.]

SORENSEN: Yes, I spoke to Governor Carter on the telephone in the booth downstairs as I entered the building. He regretted very much my withdrawal.

Q: Did he try to dissuade you from your decision?

SORENSEN: Well, he and I had been talking over the weekend, and he was aware of the situation.

Q: What made you wait until this morning?

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SORENSEN: Because I wanted to answer the personal charges that had been made against me before I withdrew.

Q: Mr. Sorensen, is there any chance that you might reconsider the nomination?

SORENSEN: No.

Q: Why do you say that a portion of the intelligence community is not ready to accept you?

SORENSEN: Because it has become apparent to me that some individuals in the intelligence community prefer someone of a different philosophy and with different experience.

Q: Are you convinced, Mr. Sorensen, that this committee would not pass on your nomination? Were you convinced that you would not be confirmed by this committee?

SORENSEN: No, I was not convinced. As I said in my statement, I was convinced that if I were to be confirmed, it would be with a substantial division that would handicap my effectiveness in the job.

Q: What do you mean, Mr. Sorensen, when you say "a different philosophy?"

SORENSEN: Well, I tried to spell out in my statement what I regard as legitimate arguments that can be made against me; arguments with respect to my experience and arguments with respect to my views. I happen to think they are fully compatible with the job as Director of Central Intelligence. But I know that there are those who disagree.

Q: How did you become aware that some people in the intelligence community did not want to accept someone with your views?

SORENSEN: Well, one senses that sort of thing.

Q: Did anyone talk to you directly, though? What happened?

SORENSEN: No.

Q: Mr. Sorensen, [words inaudible] that the votes would not be there...?

SORENSEN: Well, I'll tell you once again that I said in my statement that if I had been confirmed, it would have been with a divisive and narrow margin that might well have handicapped my effectiveness in the job.

Q: Do you share Senator McGovern's....

Q: ...you could not have been?

SORENSEN: Pardon.

Q: Did you believe that you could not have been?

SORENSEN: Well, I obviously until the vote was counted did not know. So all I knew was that the opposition was substantial.

Q: As a result of this experience, do you see the intelligence community as being very heavily influenced by people that hold hawkish, right-wing views?

SORENSEN: I would not want to characterize the intelligence community as a whole. The people with whom I have been working at the Agency have been extremely supportive of both my views and my qualifications.

Q: Mr. Sorensen, did I understand you correctly? You said the President-elect did not try to persuade you to see the thing through.

SORENSEN: Well, as of this morning, he did not. But as I say, he and I have had several conversations over the last few days. And he stoutly insisted that I stay in the race as the weekend began.

Q: But as of this morning, he did not?

SORENSEN: As of this morning he did.

Q: How much do you think politics played in this?

SORENSEN: In the....?

Q: In what happened.

SORENSEN: I would assume that politics had something to do with the charges that have been circulated against me.

Q: Do you share Senator McGovern's view that this means that the ghost of Joe McCarthy sort of stalked this room....?

SORENSEN: Oh, I think I would prefer to let Senator McGovern speak for himself on that.

Q: Mr. Sorensen, could you say why you did it in this dramatic fashion, why you saved your withdrawal till the end rather than announcing it at the beginning and then answering the

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questions, the charges against you?

SORENSEN: Possibly because none of you would have been listening when I answered the charges against me.

[Applause.]

Q: Are you available for any other job in the Carter administration?

SORENSEN: Not at this time.

Q: Who did circulate the charges against you? Do you have any idea? What kind of people or what people, specifically?

SORENSEN: Well, I think some of that has already appeared in the press. You can also take a look at the organizations, the American Conservative Union, the Liberty Lobby, spokesmen for the John Birch Society and others who have asked to testify against me.

You might also talk to those reporters who have talked to senators who have been putting out this information.

Q: Senator McGovern mentioned senators. What senators?

SORENSEN: Why, I would assume the press knows that since they always refused to be quoted by name.

Q: You feel that the John Birch Society has more influence on the senators here? Is that what you're suggesting....?

SORENSEN: No. No, I was asked who was circulating charges. And I listed some of those who are circulating charges.

Q: You believe there were senators circulating some of those allegations?

SORENSEN: According to the press. And I believe a little bit of what I read in the newspapers.

Q: Did the Governor in any way explain, Mr. Sorensen, why he so strongly supported you yesterday afternoon and urged you and insisted that you stay in the race the day before yesterday and yesterday, and yet this morning put up no particular opposition to your withdrawing? Did he explain what had changed his mind, or what?

SORENSEN: The Governor and I had jointly reached the conclusion stated in my final paragraph that there is substantial opposition in the Senate which would result either in my rejection, which would handicap his administration as it gets off to a new

start, or result in my being confirmed by a narrow vote, which would handicap my effectiveness as I got off to a start as Director of Central Intelligence.

Q: I understand that, sir. But wasn't that known to you Sunday afternoon or Saturday morning? What changed? What was it....?

SORENSEN: There's been a good deal of assessment of the votes taking place throughout the weekend.

Q: I see.

Q: Mr. Sorensen, this is possibly repetitious, as a matter of fact. When did you, in fact, on the spot decide that you would not accept this job as Director?

SORENSEN: That decision has also been evolving. Like lots of decisions, it's difficult to pinpoint a specific moment. But it was obviously not conclusive until two minutes of ten when I telephoned Governor Carter.

Q: But your typed statements had to be done before that.

SORENSEN: Yes, although that particular page was not part of the mimeographed set.

Q: When was that prepared?

SORENSEN: That was prepared late last night.

Q: So you were prepared to go either way last night. Was that it?

SORENSEN: Well, I knew pretty well last night which way I was going.

Q: If you withdrew your nomination because of the opposition elements in the intelligence community....

SORENSEN: No, I didn't say that. I didn't say that.

Q: But if you did for that reason, does that mean that the next appointee will share their views....?

SORENSEN: No. I think that -- first of all, let me say that I have -- I have not condemned and will not condemn the intelligence community as a whole. That's a grave mistake. I met out there some of the brightest and ablest and most dedicated people I have ever met anywhere in government. I worked extremely well with them. I found them very much compatible with my views

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and attitudes on covert operations, on the role of intelligence in American society, on the kind of role America should play in world affairs. As in any large organization, there are undoubtedly individuals who take a different point of view. Some of those individuals have friends in Congress, in the press and elsewhere. And I have been led to believe that some of those individuals -- and I would not even know their names -- have been a part of the campaign against me.

The next Director of Central Intelligence hopefully will not be as vulnerable to the kind of personal malicious attack which enabled those who opposed me for policy reasons to hide behind these personal attacks in order to achieve their purpose.

Q: Mr. Sorensen, do you feel that any one of the senators who you perceived was opposed to your nomination was an admirer of Joe McCarthy?

SORENSEN: I think one would simply have to check the Congressional Record to find out what some individuals in this committee said about Joe McCarthy.

Q: Mr. Sorensen, aside from that, do you think anybody -- now Senator McGovern raised a very serious question here, saying that Joe McCarthy -- the ghost of Joe McCarthy stalks the land, as I recall. Now do you agree with that, because I noted you didn't want to second that.

SORENSEN: I....

Q: Do you agree or disagree?

SORENSEN: I believe it's more appropriate for me to talk about my statement and Senator McGovern to talk about his statement.

Q: Mr. Sorensen, on your discussions initially with Governor Carter in Plains when you agreed to take this job, was there any inkling that this would be such a controversial nomination and that you would have to fight in order to become Director of CIA?

SORENSEN: No.

Q: None at all?

SORENSEN: No.

[Confusion of voices.]

SORENSEN: What?

Q: Other than the evolution that you've been going through over the weekend, has there anything that happened specifically, any information provided or any particular statements by anyone that caused your thinking to crystallize in this manner over the weekend and until this morning when you made your announcement?

SORENSEN: No.

Q: Mr. Sorensen, what is your attitude on the Ellsberg case? In other words, did you favor his theft of those documents and his release through the newspapers? I mean, was that a legitimate question....?

SORENSEN: Again, if you would read the statement which I have delivered, you would find that I submitted an affidavit at the request of counsel with respect to the inconsistencies and anomalies with respect to classification practices in Washington at the time I served. That was my sole function in the Ellsberg trial, as it had been in the New York Times' trial which preceded it.

Q: Didn't you say somewhere that you felt that it would be wrong if these documents had not been released to the Pentagon -- or leaked to the Times?

SORENSEN: What I said was in a much more general statement that I thought the public was entitled to know the tragic history of the Vietnam war.

[Confusion of voices.]

Q: Do you condemn Ellsberg in any way?

SORENSEN: I'm sorry, I didn't hear you.

Q: Mr. Sorensen, do you condemn Ellsberg in any way for the way he released those papers?

SORENSEN: I really regard either approval or condemnation of Daniel Ellsberg in 1977 as an irrelevant question. He is not on trial here today.

Q: No, no, it's just a matter of your....

Q: Mr. Sorensen....

Q: ...as head of the CIA?

SORENSEN: I'm sorry, I can't hear you.

Q: Would you be conferring with the President-elect on your

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successor? Will he ask your opinion? Has he asked your opinion?

SORENSEN: Well, he didn't have time to ask it. He did not have time to ask it this morning. If he should ask, I would be glad to give him my opinion.

Q: Mr. Sorensen, did the President-elect and/or his staff know prior to your being chosen for this CIA job about your Ellsberg affidavit and New York Times' affidavit and the other charges that you alluded to in your own statement?

SORENSEN: Well, I haven't the slightest idea how thorough their investigation of my background was prior to the time the President-elect asked me to take on this assignment.

Q: I mean, did you provide them with this information yourself?

SORENSEN: No, but this is all on the public record. As far as I know, no person who is being considered for a post is asked himself to provide information.

Q: You were not asked to provide any information yourself?

SORENSEN: No.

Q: When you spoke of finding compatible views out at the CIA, you also spoke of opposition within the intelligence community. Is this supposed to leave the implication that the Pentagon part of the intelligence community was more opposed to you than the CIA part?

SORENSEN: No.

Q: When you talked with Governor Carter....

Q: Do you think that the events of this last weekend and today would tend to support the proposition by some senators that the intelligence agencies and the Central Intelligence Agency are just a rogue elephant out of control in the way they gutted this nomination?

SORENSEN: No, definitely not.

Q: Mr. Sorensen, could you give us some estimate of how much time you spent talking with Governor Carter before he nominated you?

SORENSEN: Well, I've known Governor Carter for a year and a half.

Q: Right.

SORENSEN: If you're talking about the specific discussions relating to this selection, that can....

Q: How many hours?

SORENSEN: You can ask -- some of your colleagues who were in Plains on that Saturday afternoon can judge from the time I arrived and the time I left. It was a few hours.

Q: A few hours. Now during those few hours of discussion with Governor Carter, are you at liberty to tell us whether he or you ever discussed this controversial affidavit?

SORENSEN: Which controversial affidavit?

Q: The Ellsberg.

SORENSEN: I did not regard it as a controversial affidavit.

Q: Okay, then the affidavit. Did you discuss....

SORENSEN: And for that reason I didn't discuss it.

Q: And he didn't either.

SORENSEN: No.

Q: Mr. Sorensen, do you agree with Senator....

MAN: Folks, I think we ought to make this the last question.

Q: Do you agree with Senator Baker's analysis that the designated head of the CIA should be above controversy, above reproach?

SORENSEN: He certainly should be above reproach. But to say that he should be above controversy invites a repetition of what happened here, whereby those who are opposed to an individual for his views will start circulating totally unfounded charges against him. And then they will say "This man is controversial and therefore must be rejected."

MAN: Thank you all very much.

Q: Sir, given this experience and your willingness, though, to go on and speak to Mr. Carter about a successor, Mr. Sorensen, what would you recommend?

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SORENSEN: Well, I think it's clear from the statements delivered by the mourners after the deceased had been laid down that in their consideration of the next Director of Central Intelligence, they could do worse. And they probably will.

[Laughter.]

Q: Do you feel badly, Mr. Sorensen?

SORENSEN: No....

[End of press conference.]

Declassified
Confirmed

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74 JAN 1977

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NEW YORK TIMES

A Conversation With Mr. Sorensen

The man who is President-elect Carter's choice to head the Central Intelligence Agency is a self-confessed, card-carrying "moralist" whose principal task is to rehabilitate the C.I.A. in the public—and Congressional—mind.

But Theodore C. Sorensen, highest-ranking Kennedy alumnus in the new Administration, doesn't propose to perform that job by abolishing the secret foreign operational side of this highly controversial arm of the United States Government. The 48-year-old lawyer does propose—if he is confirmed by the Senate, as it seems virtually certain he will be—so to control its activities abroad that they will reflect only policy determinations of the President, rather than of the C.I.A. operatives themselves.

It has often been alleged that the C.I.A. or its agents have in effect conducted their own foreign policy, giving secret support—or working in opposition—to individuals or political, social or economic groups in foreign countries, of their own choosing. It is this practice that Mr. Sorensen declares he will end—without saying how. But the agency's prospective new head does not rule out covert operations altogether, as some of the C.I.A.'s most vocal critics demand.

"I'd like to get rid of the 'dirty tricks' image of the C.I.A., the idea of trying to do people in or mess people up," says Mr. Sorensen as he sits in his skyscraper Park Avenue office with an almost satellite-eye view over the East River and much of Long Island. Since he left Washington a dozen years ago, he has been practicing law—and some politics—from the vantage point of one of New York's more prestigious politically connected law firms.

"The so-called 'dirty tricks' school of intelligence is largely counter-productive anyway," he adds. "But there are types of secret operations that can be helpful to the forces of human freedom in other countries—including hostile countries, where diplomatic notes are not going to do any good. I'd rather influence events in this way than send in the Marines," said the man credited with the famous passage in President Kennedy's inaugural: "We shall pay any price, bear any burden . . . support any friend, oppose any foe to assure the survival and the success of liberty."

But, Mr. Sorensen says of secret activities: "We have to be very tough in examining such opportunities; they cannot be exploited openly and one always has to ask what will be the consequences if they should surface, as most of these operations eventually do. Will they turn out to be counter-productive once they're known? Of course I'd rule out, under any circumstances, assassination or overthrow of freely elected governments; but one still has to ask if the contemplated action is consistent with our foreign policy traditions."

Without fully resolving the problem of secret operations—perhaps it is insoluble in a democracy—Mr. Sorensen points out that in any event only a minuscule part of the C.I.A. budget is now devoted to clandestine operations: a mere 2 percent compared with 50 percent a few years ago.

Noting that the agency's importance and value rests far more on its intelligence-gathering, research and analytical functions than on its secret activities, Mr. Sorensen insists that the product that he will present to Mr. Carter and the National Security Council will be "objective, independent and free from personal and political bias"—which it has not always been in the past. At least at the outset, Mr. Sorensen will serve in the dual capacity of White House adviser as Director of Central Intelligence, and operating head of the C.I.A.—a double function that has been severely criticized as giving too much influence to the intelligence bureaucracy.

Apart from its occasional excursions into illegal and even unconstitutional activity in past years (both before, during and after Watergate), the most telling criticism of the C.I.A., almost since it was founded soon after the close of World War II, is that the intelligence it furnished to the President was frequently canted according to the predispositions of its ranking officers or trimmed to be consistent with previous years' reports (however wrong) or adjusted in response to extraneous pressures. The C.I.A., in practice accountable to no one but itself, was sometimes in the position of making policy through its intelligence reports, instead of furnishing objective reports against which the effectiveness or wisdom of a given policy could be judged.

"The people who are attacking me for my political views," observes Mr.

Sorensen, "are missing the whole point. I'm not there to design a hard or a soft line, but to present to the decision-makers the intelligence on which to make decisions, and I don't intend to let my political positions or prejudices—or anyone else's—affect my reports. The integrity of the intelligence process is absolutely the key to its success."

It was one of Mr. Sorensen's immediate predecessors—if confirmed, he will be the fifth head of C.I.A. in four years—who put this point most succinctly: "We must insist," said William E. Colby, "that an intelligence judgment is a step toward policy, not a reflection of it." To put this simple principle into effect may yet be Mr. Sorensen's most difficult challenge.

John B. Oakes is Senior Editor of The Times.

Sorensen and Helms: 'Fall Guys'

When small boys learn there is no Santa they curse Christmas. So it is with the current temper tantrums over the Central Intelligence Agency.

The agency is a symbol of a national disillusionment. The small boys in public life are now taking out their disappointment on convenient fall guys—former director Richard Helms and Ted Sorensen, who has so nobly withdrawn his name from consideration as next director.

Americans have always harbored ambiguous attitudes toward secret intelligence. Committed to free institutions and believing this country to be especially moral, we have inevitably had hangups about reading other people's mail, not to mention subverting other people's governments.

During the early years of the cold war, the CIA seemed relatively exempt from the usual prejudices. It was a salient part of a national consensus, forged during World War II and continued without much change through the two decades thereafter. Moreover, almost everybody could see that the agency was doing useful work in the face of what was generally accepted to be a threat to the national security.

The agency gave advance warning of the Korean invasion. It surfaced Khrushchev's secret speech to the 24th Party Congress. It provided precise and timely information during the Cuban missiles crisis.

Apart from doing vital work, the agency offered something to the chief wings of national opinion. Conservatives, who consider themselves specially entrusted with national security, could feel that the agency was the acme of vigilant activism on the front lines. To their satisfaction, the CIA undid left wing regimes in Iran and Guatemala, and harassed left-wingers in Indonesia, Vietnam, Cuba and the Near East.

Liberals had the satisfaction of knowing that the analytic side of the agency was dominated by intellectuals in such centers as Cambridge and Berkeley.

Compared to the other departments and agencies fighting the cold war from Washington, the CIA was a paragon of subtle sophistication.

Vietnam and Watergate revealed a different side of the agency. It was seen to be not efficacious and skillful, but sleazy and bungling. It participated in assassination plots unworthy of this country. It spied on some Americans who had done nothing wrong and used others for "medical experiments." It lied to the Congress, played games with the White House, and was as much animated by bureaucratic rivalry as concern for national security. Indeed, it used the "national security" cloak to cover its own mistakes.

The falling-off of the agency is part of a large historic process which dwarfs individuals. After the Cuba missile crisis, the basic cold war confrontation was transformed. Much of the agency did not make accommodation to the new conditions. Many intelligence officials, finding themselves with less and less serious business, began inventing missions and taking on tasks for which they were not fit.

But this large, impersonal explanation does not satisfy partisans with axes to grind. Liberals who are pleased to believe that America represents a sick, imperial culture, see the CIA as a prime carrier of the disease. They demand symbolic punishment, and are baying for indictment of former director Richard Helms on the ground that he committed perjury in the Watergate investigation.

Conservatives are pleased to believe that there is a failure of national nerve. They see the agency as the last-ditch trench in their battle to save the country from naive appeasement of Communist power.

So they opposed Jimmy Carter's nomination of Sorensen, a non-cold warrior, to be the next director. They did it by leak and innuendo and a mud-throwing campaign built on trivial incidents involving Sorensen's use of classified material for his book on Kennedy and the affidavit to that effect which he made available in the defense of Daniel Ellsberg, the purveyor of the Pentagon papers.

Both Sorensen and Helms are men I have known many years. I know as well as anybody they have shortcomings. I think Helms was wrong not to volunteer at some point what he knew — from the very first days—of the Nixon effort to cover up Watergate. I think Sorensen was wrong to mix his own use of documents, which was benign, with the Ellsberg case.

But both Helms and Sorensen are dedicated men of high intelligence and strong impulse to public service. They did what they thought was right given the accepted standards of the time. Roughing them up has been no service to the CIA or the country. On the contrary, the nobility of Sorensen's withdrawal stands as a powerful showing that the true cancer of the CIA lies in the corrupt, self-indulgent vanity of those who barred his way to an office he could have filled with distinction. This victory brings to mind Dr. Johnson's famous comment that patriotism is the last refuge of scoundrels.

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Sorensen Defended By Carter

CIA Nominee Faces Senate Opposition At Hearing Today

By Spencer Rich
Washington Post Staff Writer

The battle over the nomination of Theodore C. Sorensen to head the Central Intelligence Agency intensified yesterday.

President-elect Jimmy Carter defended the nomination, but Republican National Chairman Bill Brock called it "a major Carter blunder... just incredible," and said Sorensen had demonstrated a "total lack of fitness for the job."

Senate Republican Leader Howard Baker (Tenn.) said, "the odds are Sorensen is not going to be reported out (by the Senate Intelligence Committee) and I don't think he should be... the CIA director should be above reproach and beyond controversy, and Sorensen is definitely not that person."

Baker said this could be the "first showdown" between Carter and Congress.

Sorensen's confirmation hearing before the Intelligence Committee begins today.

Critics cite allegations that he leaked and mishandled secret classified materials as a White House official in the 1960s, avoided the military draft by classification as a conscientious objector and then as a father, and may have been involved in assassination plots against foreign officials during the Kennedy administration. Yesterday an aide denied all these charges.

Carter, in a statement from Plains, Ga., called "attacks on Mr. Sorensen's judgment and loyalty groundless and unfair." He defended Sorensen's handling of confidential materials for President Kennedy in the early 1960s as "consistent with what I understand to have been common practice in administrations of both parties."

Sorensen aides said the President-elect assured him in a phone conversation yesterday morning that he has no intention of asking him to withdraw.

They also said Sorensen received a strong endorsement from former CIA Director John A. McCone (1961-65) in a telegram to Sen. Daniel K. Inouye (D-Hawaii), chairman of the Senate Intelligence Committee.

But Brock, asserting that former California Gov. Ronald Reagan (R) shares his opposition to Sorensen, predicted that "Carter will be forced to withdraw the nomination and if he doesn't, the Senate, I am confident, will repudiate it. I wouldn't be surprised to see the committee refuse to report it out."

Brock said GOP opposition to Sorensen is "not a matter of partisanship," but added, "if the committee rejects him, it would be a striking repudiation of Carter at this stage — inauguration week."

In his testimony today, aides said, Sorensen will say that he "leaked" only with permission of the President, that he had General Services Administration permission to take various documents with him after he left the

See SORENSON, A2, Col. 1

White House, that he was willing to serve under fire in the military but in a non-combatant role, and that he "knew nothing" of alleged CIA assassination plots.

Opposition to Sorensen from members of the 15-man Intelligence Committee has been emerging over the past two weeks.

Sens. Jake Garn (R-Utah), Barry Goldwater (R-Ariz.) and Strom Thurmond (R-S.C.) apparently are already prepared to oppose him, Sen. Robert C. Morgan (D-N.C.) is highly dubious, Baker is opposed, several other members privately are dubious, and Chairman Inouye also is reported to have advised the President-elect it might be wise to withdraw Sorensen's name.

Yesterday Sen. Spark Matsunaga (D), not a committee member but Inouye's Hawaii colleague, was quoted by United Press International as saying "I hope he would withdraw and not embarrass the President."

Carter, it was learned, has personally called several members of the committee in an effort to obtain support for Sorensen.

Meanwhile, Richard Neustadt, Carter transition aide who is helping Sorensen prepare for the Senate Intelligence Committee hearings, outlined the rebuttal Sorensen will offer today.

He said Sorensen will tell the com-

mittee that when he was a Kennedy top aide "he knew nothing about any of the alleged assassination plots" by the CIA against foreign government officials.

As for charges that Sorensen was a conscientious objector, Neustadt said Sorensen was classified 1-AO in 1948. "The classification indicates willingness to serve under fire but not to bear arms. It is not a reluctance to be in danger. Combat medics are classified this way. He received this classification because he personally does not believe in shooting at people. It's not a belief he wants to impose on the rest of society. He just personally didn't want to shoot people at the time." He came from a Unitarian family.

News records indicate that Sorensen was later classified as married, temporarily as 4-F because of a tumor, and then 3-A as a father.

In September, 1961, a critical article on Sorensen's draft classifications was placed in the Congressional Record by Goldwater, who asserted, "It often requires more courage to seek this classification (1-AO) than to serve in the armed forces. However, I can't help but wonder at the thought of the fathers and mothers of American boys who right now are being called up for active military service when they learn that one of the President's closest advisors is an objector because of his conscience."

Possibly the greatest threat to Sorensen results from committee reaction to two affidavits filed by Sorensen on behalf of the defense when the government tried to stop newspapers from publishing the secret government Pentagon papers, and the 1972 trial of Daniel Ellsberg, former Rand Corp. associate accused of leaking the papers to the press.

In those affidavits, Sorensen revealed that he took 67 boxes of materials from the White House when he left, including seven boxes of classified materials, used some to write his 1965 book, "Kennedy," received a tax break for donating some of the papers to the government, and while in the White House leaked classified materials to the press.

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The Sorensen Issue

By Anthony Lewis

WASHINGTON—The use and abuse of secrecy in Government are a familiar story after the experience of recent years. Practically anything worth knowing is routinely classified. Then officials disclose the "secrets" in their own way and for their own purposes. That is the way of the world in Washington.

For saying out loud that those are the habits of official life—and that he once practiced them himself—Theodore C. Sorensen is now in grave danger of failing to receive Senate confirmation as Director of Central Intelligence. That the Senate could act on such a ground sounds unbelievable, but the possibility is real.

Last Thursday the chairman of the Senate Intelligence Committee, Daniel K. Inouye of Hawaii, suggested that Mr. Sorensen withdraw. That night President-elect Carter telephoned Senator Inouye; he said he was standing firm on his choice of Mr. Sorensen and did not intend to lose. But on the eve of the committee hearings Monday, several key Senators put the odds heavily against confirmation.

The sudden flap in the Intelligence Committee came after members read two affidavits made by Mr. Sorensen five years ago in connection with the Pentagon Papers. He gave one to The New York Times when the Nixon Administration tried to stop its publication of the papers, the other to Daniel Ellsberg and Anthony Russo for their defense against criminal charges. The Government eventually lost both cases.

The two affidavits drew on Mr. Sorensen's experience in the White House under President Kennedy. For The Times, he said that "top secret" stamps were often applied "with only the briefest and loosest consideration" of the harm, if any, in public knowledge. And he said the national interest would really be damaged by suppression, not publication, of the Pentagon Papers and their facts on the origins of the Vietnam War.

In the second affidavit, he said the President and high national security and intelligence officials often gave out classified information to promote particular policies or political interests. Then he made a comment on his own practice that has aroused special concern among senators now.

When he left the Government in 1964, Mr. Sorensen said, he took sixty-seven cartons of his papers with him, seven of them "classified." He drew on this material in writing his book, "Kennedy." No one ever raised any security objections. Various Government agencies recognized that the papers were his under the precedents and asked him to donate them to the Kennedy Library, as he did.

None of those statements ought to alarm any informed person. Since Mr. Sorensen's day the practice of making and unmaking "secrets" has if anything grown. Diplomatic secrecy was mocked by the "senior official" on Henry Kissinger's travels. In recent weeks there have been massive, obviously calculated leaks from the intelligence community on a subject of the highest security: estimates of Soviet military intentions.

As for Mr. Sorensen's removal and use of papers when he left the White House, there is nothing new in that either. Presidents through Lyndon Johnson have taken their papers with them on leaving office, and published books based heavily on classified documents. So have Presidential assistants. What Mr. Sorensen did violated no law and no regulation. His sin was candor. He spoke out. Moreover, he had the courage to do so in behalf of controversial defendants, when a then-powerful Administration was trying to suppress the facts about a hated war.

The issue is not Theodore Sorensen. He may not be the ideal Director of Central Intelligence; I was surprised myself by the choice of someone so identified as a President's man. But the strong tradition is for the Senate to let an incoming President pick his own top people. To break that tradition on these grounds would send an appalling message.

The Senate, if it were to turn Theodore Sorensen down because of his Pentagon Papers affidavits, would revive the discredited mystique of secrecy in Government. It would effectively vote with Richard Nixon and John Mitchell against those who thought the public should know how we got into Vietnam. And it would be proclaiming a curious double standard on the past record of those chosen for high office.

By all indications, the Senate is about to approve as Attorney General a man who once devised ways to resist the law of racial desegregation. Senate committees have welcomed as Secretaries of State and Defense men identified with disastrous policies in Indochina. But there would be no understanding or forgiveness for "someone who would leak classified documents out of the White House"—as Senator Jake Garn, Republican of Utah, expressed his concern.

Jimmy Carter also has a great deal riding on the Sorensen issue. He read the two affidavits himself on Thursday and said he found no problem in them. He must suspect that the resistance to Mr. Sorensen has other sources, particularly on the far right. If Mr. Carter loses in this case, or fails to make a real fight, he will be weakened for the inevitable tests ahead on arms control, the Panama Canal and other national security issues.

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(TRANSMITTED 1-17)

INSIDE REPORT: CARTER'S SORENSEN CRISIS

BY ROWLAND EVANS AND ROBERT NOVAK

WASHINGTON - DISCOVERY OF THEODORE SORENSEN'S CRIPPLING AFFIDAVIT IN THE 1973 ELLSBERG TRIAL HAS NOW BROUGHT JIMMY CARTER FACE TO FACE WITH THE FIRST CRISIS OF HIS PRESIDENCY; BUT IN FACT THE NOMINATION OF SORENSEN WAS VERGING ON CRISIS LONG BEFORE THE AFFIDAVIT SURFACED.

THE FACT THAT MR. CARTER DID NOT PERCEIVE THIS IMPENDING CRISIS BEFORE THE ELLSBERG AFFIDAVIT EXPLODED HAS ASTONISHED SUCH STRONG CARTER DEMOCRATS AS SEN. JOSEPH BIDEN OF DELEWARE; THE FIRST DEMOCRATIC SENATOR PUBLICLY TO ENDORSE HIS PRESIDENTIAL CANDIDACY; AND SEN. ADLAI STEVENSON OF ILLINOIS. BOTH ARE MEMBERS OF THE SENATE INTELLIGENCE COMMITTEE WHICH BEGINS ITS CONFIRMATION HEARINGS TODAY ON THE SORENSEN NOMINATION TO RUN THE CIA.

BOTH MIGHT HAVE ENDED UP VOTING FOR SORENSEN - AND INDEED STILL MAY - BUT ALONG WITH AT LEAST HALF A DOZEN OTHER MEMBERS OF THE 15-MEMBER COMMITTEE, BOTH WERE DEEPLY WORRIED THAT SORENSEN MIGHT NEVER WIN THE CONFIDENCE OF THE CIA OR OTHER INTELLIGENCE UNITS OF THE U.S. GOVERNMENT.

THAT FACTOR OF CONFIDENCE HAS ALL ALONG BEEN THE REAL SOURCE OF DOUBT ABOUT SORENSEN AS INTELLIGENCE CHIEF. INDEED, ONE FORMER OFFICER IN THE CIA - NOW RETIRED - TOLD US THAT FOREIGN ALLIED INTELLIGENCE AGENCIES, NOTABLY THE BRITISH MI-6 AND THE HIGHLY RESOURCEFUL ISRAELI INTELLIGENCE SERVICE, WOULD FIND IT DIFFICULT TO PLACE FULL TRUST IN THE CIA IF SORENSEN BECOMES ITS MASTER.

THIS VIEW OF JOHN F. KENNEDY'S WHITE HOUSE COUNSEL MAY BE UNFAIR TO SORENSEN; BUT IT IS WIDELY HELD BOTH BY DISCERNING DEMOCRATS ON THE INTELLIGENCE COMMITTEE AND BY U.S. INTELLIGENCE SPECIALISTS. ONE COMMITTEE DEMOCRAT, FOR EXAMPLE, TOLD US HE WAS ASTONISHED THAT WHEN SORENSEN CAME TO SEE HIM LAST WEEK IT WAS SORENSEN WHO ASKED THE QUESTIONS, NOT THE SENATOR.

"TED WAS TAKING NOTES FROM ME ON THE OPERATION OF U.S. INTELLIGENCE," THIS LIBERAL DEMOCRAT TOLD US; "INSTEAD OF MY TAKING NOTES FROM HIM."

LIKEWISE, CONSERVATIVE REPUBLICAN SEN. JAKE GARN OF UTAH, A FORMER NAVAL PILOT, TOLD SORENSEN HE WOULD HAVE NO OBJECTION TO HIM AS SECRETARY OF HEALTH, EDUCATION AND WELFARE OR HOUSING AND URBAN DEVELOPMENT - BUT COULD NEVER SUPPORT HIM AS HEAD OF THE CIA.

THE ELLSBERG AFFIDAVIT IMMEDIATELY MAKES SORENSEN FAR MORE VULNERABLE ON THIS CRITICAL QUESTION OF CONFIDENCE. IN THE AFFIDAVIT SORENSEN FREELY ACKNOWLEDGED THAT HE WENT OFF WITH "SEVEN BOXES" OF WHITE HOUSE DOCUMENTS GIVEN A "SECRET" OR OTHER SECURITY CLASSIFICATION; USED THEM DURING HIS RESEARCH ON "KENNEDY;" HIS BOOK ABOUT THE LATE PRESIDENT; THEN GAVE THEM, ALONG WITH 62 OTHER BOXES OF WHITE HOUSE DOCUMENTS, TO THE U.S. ARCHIVES (AND TOOK A LEGAL TAX DEDUCTION FOR THE GIFT).

TAKING CLASSIFIED DOCUMENTS, UNDER NORMAL CIRCUMSTANCES, IS AT THE LEAST A VIOLATION OF GOVERNMENT REGULATIONS; AND IN CERTAIN CASES COULD BE A CRIMINAL OFFENSE. BUT THAT IS NOT WHAT MAKES SORENSEN - AND JIMMY CARTER - SO VULNERABLE. THE LEGAL ASPECT OF THE AFFIDAVIT IS SECONDARY TO THE CONFIDENCE FACTOR; THE DIRECTOR OF CENTRAL INTELLIGENCE IS THE ONE OFFICIAL IN THE GOVERNMENT NOT PERMITTED NATIONAL SECURITY SHORTCUTS.

IN ADDITION, POLITICIANS CITE SORENSEN'S LONG PUBLIC RECORD AGAINST CLANDESTINE OPERATIONS ABROAD - THE CIA'S SO-CALLED "DEPARTMENT OF DIRTY TRICKS" - AS REVEALING A STATE OF MIND THAT HAS ITS PLACE IN THE POLITICAL COMMUNITY BUT IS DANGEROUSLY MISPLACED IN A DIRECTOR OF CENTRAL INTELLIGENCE.

IN "WATCHMEN IN THE NIGHT," SORENSEN'S 1975 BOOK ABOUT PRESIDENTIAL ACCOUNTABILITY ON THE SIDE OF OVERDISCLOSURE INSTEAD OF OVERCONCEALMENT. HE ALSO QUESTIONS COVERT OPERATIONS ABROAD, SAYING THAT THEIR "CONTINUING VALUE" SHOULD BE "CRITICALLY REEXAMINED" AND THAT NO SECRET OPERATIONS CAN SUCCEED "WHICH ARE NOT BACKED BY A BROAD NATIONAL CONSENSUS."

CRITICIZING THOSE WORDS, A HIGH FORMER INTELLIGENCE OFFICIAL TOLD US THAT IF A "NATIONAL CONSENSUS" IS NEEDED AS BACKING FOR A SECRET OPERATION, THEN THERE CAN BY DEFINITION BE NO SUCH OPERATIONS.

SORENSEN HAS SAID HE WOULD NOT RULE OUT ALL CLANDESTINE OPERATIONS IF HE IS CONFIRMED AS BOSS OF THE CIA. YET, HIS OUTSPOKEN CONDEMNATION OF THAT PART OF THE U.S. INTELLIGENCE APPARATUS (MINDR COMPARED TO SOVIET OPERATIONS) HAS PUT THE INTELLIGENCE COMMUNITY HERE NOT ONLY ON GUARD BUT IN GENUINE CONSTERNATION ABOUT HIS INNER CONVICTIONS.

HENCE, THE DILEMMA OF MR. CARTER, WHOSE REPUTATION FOR STUBBORNNESS WILL NOW BE TESTED: SHOULD HE INSIST ON PUSHING THE NOMINATION THROUGH A WORRIED SENATE, AND RISK EXPOSING THE BELEAGUERED CIA TO ANOTHER SAVAGE ROUND OF POLITICAL BATTLE? OR SHOULD HE FIND A MORE HOSPITAL PERCH TO REPAY THE FIRST PROMINENT NEW YORK DEMOCRAT TO HELP HIS PRESIDENTIAL CAMPAIGN? THE AFFIDAVIT TO THE ELLSBERG TRIAL AND ITS DAMAGING EFFECT ON SORENSEN'S CREDIBILITY AS INTELLIGENCE CHIEF IS A HEAVY BURDEN FOR THE PRESIDENT-ELECT IF HE DECIDES TO PUSH ON THROUGH.

EN (LEOIT EVANS-MOYAK SUB COLUMN FOR MONDAY, JAN. 17)

Garry Wills

Sorensen's disqualifications

When I first heard that Theodore Sorensen was being nominated for the new administration, I thought Jimmy Carter must have established a Ministry of Alliteration. Sorensen's only political achievements have been rhetorical — and even the rhetoric was not that good. "Ask not what your country can do for you, but what you can do for your country" is a neat formula for totalitarianism.

Sorensen wrote a big book about his Leader, full of phrases like "the pith and purpose of his presidency," "the lure of luxury and lawmaking," "filial feelings of loyalty and love." You must think I made those up — that no one but a 13-year-old in the first spasms of his love for Edgar Poe could risk such things in print. But they are all from the opening pages of what purported to be a serious work.

There are other things, more disturbing, in that book. Sorensen admits that, during the Vietnam escalation, Kennedy's "news conference statements were elusive" — but only because he did not want Vietnam to be considered of "Berlin status." That is: he did not want people to know what we were doing.

Writing in 1964, Sorensen seemed to think Kennedy's only mistake in Vietnam was that he did not promote social projects as well as military ones. That is what

the wise men were saying around President Johnson at the time — so we got the "TVA on the Mekong" talk of Johnson after his Johns Hopkins University speech, which just prolonged the killing. And Sorensen even says Kennedy's failure to promote social welfare was the State Department's fault — it kept losing battles to the Pentagon.

On the assassination of Premier Diem, Sorensen is very circumspect. But he can only claim that operation "received no assistance from the United States" by defining assistance in a very narrow (not to say tricky) way. This presents us with an interesting point for a man who now wants to run the CIA. If he really believed we did not help nudge Diem, how much savvy can we expect from him in intelligence matters? If, on the other hand, he realized what went on, he seems to have been covering up for his master — and cover-ups are the last things we need now.

It may be said Sorensen has learned from the past; but his post-Watergate book *Watchmen in the Night* does not give us reason to suppose so. He still warns us there not to "emasculate" the presidency. In this book, as in all three of his preceding ones, he continues to celebrate John Kennedy's irresponsible actions in the Cuban missile crisis.

Sorensen argues that the Nixon experience should not make us fear a strong presidency. Nixon, he explains, was a weak president because he did not have "strong convictions." Tell that to the dead and wounded in Cambodia. He also argues against trying to raise barriers to the imperial presidency because they would prevent a whole series of benign actions by presidential fiat. He even includes in the list President Truman's dismissal of General MacArthur — a particularly ridiculous example, because the hedges actually proposed for presidential actions are meant to recall them to constitutional usage, and no one ever denied that the Constitution gives the president commander-in-chief power over generals.

Sorensen's whole career is one of special pleading for the Kennedys — which brings us to the principal disqualification for the job. Mr. Carter wants to give him. What is needed now is a man who can make the CIA accountable and break its habit of covering up crimes even from authorized overseers. Yet Mr. Sorensen participated in one of the most brazen cover-ups of our time, which thwarted investigation into the events at Chapquiddick.

In short, I believe he will hurt the CIA. So I hope he'll be confirmed.

THE ADMINISTRATION

CARTER TAKES HIS LUMPS

In the Senate Caucus Room, both sides were poised for battle. At stake was the confirmation of Jimmy Carter's nominee as CIA director: Theodore Sorensen, 48. Ready to bear witness against him were representatives of assorted conservative and right-wing groups, including the Liberty Lobby and the John Birch Society. Prepared to defend him were some of the ornaments of the Eastern liberal Establishment such as Averell Harriman and Clark Clifford.

After Senator Pat Moynihan introduced his fellow New Yorker as a man by whom the CIA "will be well served," the slender, bespectacled Sorensen took over. Looking grim and even more somber than usual, he read a vigorous ten-page rebuttal of what he called "scurrilous and personal attacks." When he had finished, he picked up another piece of paper and began reading from it. "It is now clear," he said, "that a substantial portion of the U.S. Senate and the intelligence community is not yet ready to accept as director of Central Intelligence an outsider who believes as I believe." As the 15 members of the Senate Select Committee on Intelligence visibly stiffened, Sorensen went on to announce that he was withdrawing his nomination. The battle was over before it had really been joined.

Surprised Senators tried clumsily to soften the blow. Utah Republican Jake Garn assured Sorensen that his integrity had not been in question. Said the Senator: "I thought you were the wrong man for the wrong position." Indiana Democrat Birch Bayh told Sorensen that some people were out to get him "because they don't want a clean broom at the CIA." Senator George McGovern emerged from the audience to remark that the episode showed that the "ghost of Joe McCarthy still stalks the land." Committee Chairman Dan Inouye, who opposed the nomination, said that he hoped Sorensen would leave with no "bitterness."

That was undoubtedly asking too much. With gallows wit, Sorensen remarked: "Well, Gary Gilmore and I..." He told TIME New York Bureau Chief Laurence Barrett: "As someone said to me this morning, a lot of dirty little streams flowed together to make this flood. There was the extreme right, the Kennedy haters, the Carter haters. The smokescreen reasons—outright lies and falsehoods—masked the real opposition. To boil it down to one sentence, people felt that an outsider with my beliefs should not head that agency."

The withdrawal was a rebuke not only to Sorensen but to Carter. Only

eight presidential Cabinet appointees have been rejected by the Senate in U.S. history. It is even rarer for a nominee to be turned down by a Congress controlled by the President's own party. The last time that happened was in 1925, when Charles Warren, Calvin Coolidge's choice for Attorney General, was rejected because he was too closely identified with the Sugar Trust.

In a narrow sense, Sorensen was not actually rejected, but if his nomination had come to a vote, it probably would have been defeated. On the eve of his Inauguration, Carter was thus given clear warning that he cannot take the heavily Democratic Congress for granted.

From the first, the Sorensen appointment seemed curious. He served as President Kennedy's top adviser and speechwriter but has had little intelligence experience. Since he returned to private life (corporation law), he has urged a more modest role for the CIA and the curtailment of its covert operations.

The choice was largely Carter's idea; Vice President Walter Mondale was equally enthusiastic. Sorensen was esteemed for both his mind and his morality. He was also an early backer of Carter for President, raising funds and tapping talent among liberals who had serious reservations about the Georgian. Beyond that, Sorensen was seen as a good soldier who would carry out Carter's instructions at the CIA. Moreover, some Carter staffers reckoned that a liberal like Sorensen might be better able to defend the agency against criticism from the left. Said a close Carter adviser after the scheme had misfired: "What the hard-core conservatives who went after Sorensen have done is set their own damn course back."

Intelligence Committee conservatives such as Barry Goldwater and Strom Thurmond were indeed up in arms over the nomination; their doubts had been fed by the intelligence community, which lobbied against Sorensen. But some liberal Democrats were scarcely less vehement in their opposition. One source of doubt was the fact that Sorensen had registered for the draft as a conscientious objector. Led by Hawaii's Inouye, a much-decorated World War II veteran who lost his right arm in combat, the Senators wondered whether Sorensen would be able to approve agency operations that might endanger life. Sorensen also is a fierce Kennedy loyalist who still wears his PT-109 tie clasp. After the 1969 Chappaquiddick incident, he was summoned to help draft the statement that tried to exonerate Ted Kennedy. Would Sorensen put family above national loyalty? Finally, there were nagging questions about his personality. He is intelligent, disciplined and principled, but he tends to be aloof, arrogant and occasionally self-righteous. His political views simply do not like him.

On top of all that, some affidavits

that he submitted in the Pentagon papers trial of Daniel Ellsberg surfaced. As a defense witness, Sorensen testified that he, like Ellsberg, had removed classified information without authorization. When Sorensen left the White House in 1964, he took along 67 boxes of documents, seven of them classified. Included were memos on the Kennedy-Khrushchev summit meeting in Vienna, the war in Laos, the Bay of Pigs invasion and the Cuban missile crisis. Sorensen used some of the material for his book *Kennedy*, then donated all of it to the Kennedy Library. He claimed a \$231,000 tax deduction, part of which was rejected by the IRS. These actions were not exceptional. When Lyndon Johnson left the White House, he carted away mounds of documents, some of which wound up in his memoirs *The Vantage Point*. "It's a bum rap," said Mondale.

RODDEYE MIMS



SORENSEN AT THE COMMITTEE HEARING
"A lot of dirty little streams."

"Everybody has done the same thing."

But not everybody is nominated to be CIA director. "The effect [of Sorensen's appointment] on the clandestine services would have been serious," said a committee member. "His actions with the classified material and his support of Ellsberg would have raised doubts with sources around the world about the reliability of the director." A Democratic Senator added that because of the lack of confidence in Sorensen, "there was the certainty that the agency would either control him or ignore him."

Trying to salvage his appointment, Sorensen called on every committee member—with the exception of Goldwater, who refused to see him. But Sorensen apparently was not all that persuasive. One Democrat, in fact, was put to bed by Sorensen's "intellectual convolutions." Hard counts by Mondale and Carter staffers showed

continued

that Sorensen had only five committee votes, while nine were against him.

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Already embroiled in a nomination fight over Attorney General-designate Griffin Bell, Carter felt he could not afford another. The question was how to cut his losses. In a long phone conversation on Sunday afternoon, Carter did not directly suggest that Sorensen bow out, yet managed to get the message across. Sorensen was more optimistic than Carter about his chances, but Carter kept leading him back to the hard facts. Carter said he was willing to support Sorensen if he wanted to confront his adversaries on the committee, but pointed out that the votes were not there. Sorensen replied that he would think it over. A few minutes before the hearings began the next day, Sorensen phoned Carter to say he had decided to withdraw. Carter did not try to dissuade him.

As the dust settled, it became apparent that Mondale had not been as alert to the hazards of the nomination as he might have been. Though he had served on the Intelligence Committee when he was a Senator, he failed to consult its members beforehand on Sorensen; he also did not check their reaction until the appointment was just about doomed. But if Carter was disappointed with the performance of his Vice President, he was not saying so.

Many Senators were worried that the rebuff to Sorensen would provoke a display of Carter's stubborn streak. It did not—at least, not yet—even though it left him in something of a predicament. He must find a replacement for Sorensen who is acceptable to Capitol Hill, though the Senate is not likely to turn him down a second time. The Intelligence Committee has anticipated him by offering some suggestions, including former Commerce Secretary Pete Peterson and James Schlesinger. House Speaker Tip O'Neill proposed retired Army Lieut. General James Gavin, chairman of Arthur D. Little Inc., an industrial research firm in Cambridge, Mass. Yet if Carter chooses someone recommended by Congress, he will appear to have caved in to Capitol Hill.

The White House has floated its own list of candidates. The names mentioned most prominently are Thomas Hughes, president of the Carnegie Endowment for International Peace; Paul Warnke, a Washington attorney who served as Assistant Defense Secretary; Burke Marshall, a former assistant U.S. Attorney General who is now a professor at Yale Law School; and Gerard C. Smith, a Washington lawyer who headed the U.S. delegation to the SALT talks.

In the wake of the Sorensen rebuff, Minority Leader Howard Baker tried, not too successfully, to be reassuring. "Nobody declared war on Carter," he said smoothly. "The honeymoon isn't over." Perhaps not—but neither is it off to a terribly good start.

Theodore Chaikin Sorensen

Former Special Counsel to the President. Born in Lincoln, Nebraska, on 8 May 1928; son of Christian Abraham and Annis Chaikin Sorensen. B.S. in Law, University of Nebraska, 1949; LL.B., 1951; LL.D., 1969; LL.D., University of Canterbury, 1966, Alfred University, 1969, Temple University, 1969, Fairfield University, 1969. Married Camilla Palmer, September 8, 1949 (divorced August 1963); children: Eric Kristen, Stephen Edgar, Philip Jon; married Sara Anne Elbery, June 3, 1964 (divorced 1969); married Gillian Martin, June 28, 1969. Admitted to Nebraska bar, 1951; New York bar, 1966; D. C. bar, 1971; also U. S. Supreme Court. Attorney, Federal Security Agency, 1951-1952; member of the staff, Joint Com. Railroad Retirement, U. S. Senate, 1952; assistant to Senator John F. Kennedy, 1953-1961; secretary, New England Senators Conference, 1953-1959; Special Counsel to the President, 1961-1964; member of the firm Paul Weis, Rifkind, Wharton & Garrison, New York City; editor-at-large, director of Saturday Review, 1966-1969; commentator on national affairs on Metromedia Channel 5, 1971 to present; Democratic candidate for New York Senate, 1971. Named by Junior Chamber of Commerce as one of ten Outstanding Young Men of the Year, 1961. Member Nebraska Bar Association, Phi Beta Kappa, Order of the Coif. Editor of the Nebraska Law Review, 1950-1951. Author: Decision Making in the White House, 1963; Kennedy, 1965; The Kennedy Legacy, 1969. Office: 345 Park Avenue, New York City 10022

Also listed in Who's Who are two brothers: Philip Chaikin Sorensen, a lawyer who lives in Columbus, Indiana; and Thomas Chaikin Sorensen, listed as a business executive, partner in Sartorius & Company in New York City.

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SUBJECT Hearings on the Nomination of Theodore Sorensen

SENATOR DANIEL INOUE: The Senate Select Committee on Intelligence begins hearings today on the nomination of Mr. Theodore C. Sorensen to be Director of Central Intelligence. The post of Director of Central Intelligence is one of the most important in the United States government. Intelligence is our first line of defense....

PAUL DUKE: We would like to say that we are having some audio problems this morning, so the sound will not be up to the customary par.

SENATOR INOUE: ...and employing tens of thousands of highly skilled and dedicated men and women. The position of Director of Central Intelligence requires the ability to manage, set priorities, allocate resources and direct the activities of highly complex organizations, international intelligence community, such as the National Security Agency, elements of the Department of Defense, as well as the CIA, the Department of Defense Intelligence Agency, the counterintelligence activities of the FBI and the intelligence functions of the Department of State.

The Director of Central Intelligence has a duty to provide to the President and to the national leadership, both in the executive and legislative branches, the best information and analysis of that information available to the United States government. The difficult task of serving both the President and Congress is one that requires wisdom and tact and the trust of both branches of the government. The analytic ability, mature judgment and the independence of mind required are qualities indispensable to the task of the Director of Central Intelligence.

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In addition to firm managerial talent and the highest degree of informed knowledge and analytic ability, there must be confidence on the part of our citizens, our departments and agencies, our Congress and our allies that the Director of Central Intelligence is a man of intellectual integrity, proven accomplishment and discretion, worthy and suited to the task of guiding the secret activities of the United States Government and protecting the valid secrets of the United States Government.

There has been great controversy in the past decade about the proper role of secret activities carried out by the United States Government, which have shaken the structure of our intelligence system. This concern was aroused by the Vietnam war, sharpened by the revelations of Watergate and heightened by the investigations of intelligence agency abuses of the past years.

We are now rebuilding, under the Constitution and the law, an effective intelligence system designed to protect and enhance the liberty of all Americans. The creation of the Select Committee is one step in that rebuilding process. The appointment of a new Director of Central Intelligence sensitive both to the need for the best possible intelligence and to the need to protect the rights of our citizens is another important step.

We seek the best possible Director for our national intelligence system. We have a deep awareness of the critical importance of this appointment and of the qualities that are required. It is in this spirit that the hearings upon the nomination of Mr. Sorensen are being held.

The Chair recognizes the vice chairman of the committee.

SENATOR JAKE GARN: Thank you very much, Mr. Chairman.

I want to welcome Mr. Sorensen to these hearings. I want him and all present to know that this committee and the Senate consider this hearing to be of the utmost importance. The Director of Central Intelligence is the President's chief adviser on intelligence matters and supervises a vast, expensive intelligence system whose work is of critical importance to the security of this nation. We have on this committee senators who have widely varying views about the intelligence community. We have a diversity of opinion as to what legislative actions we should take. But we are united on at least one key point: the security of this nation is affected by the quality of the information the intelligence community provides. We do not live in a trouble-free world. We need an intelligence system which will protect the interests of this country throughout the world. As the Director of Central Intelligence, we need a man who has the total confidence not only of the people of this country, but of the countries throughout the world with which the United States must deal.

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It is with the serious recognition of this great responsibility that we as a committee begin these hearings on the President-elect's nomination of the Director of Central Intelligence. I think I can speak for every member of this committee when I say we have begun and will continue to carry out these responsibilities carefully and thoroughly. In addition, I want to add that I'm impressed with the way all fifteen members of this committee have undertaken this task without the slightest hint of partisanship.

I strongly believe that pure partisan interests should not have any role to play in our oversight of the intelligence community. In that regard, I want to state that I fully recognize President-elect Carter's right to designate his own choice for Director of Central Intelligence and to hope that his choice will be confirmed by the Senate. This committee has approached these hearings with that right of the President-elect in mind. We will support the nomination if it is possible to do so when these hearings are concluded. The purpose of these hearings is to assess Mr. Sorensen's qualifications to occupy this important position. We are not here to decide how liberal or conservative he is. We are not here to decide whether we approve or disapprove of Mr. Sorensen's past friendships or associations. Nor in fact are we even here to decide whether or not Mr. Sorensen's education and experience have prepared him fully for this job. If the truth were known, probably no Director of Central Intelligence after once taking office has ever felt fully prepared to assume these large responsibilities.

We are here to determine whether or not Mr. Sorensen, in our view, possesses those values and attitudes and views which will prompt him to act wisely and objectively, which will cause those thousands of Americans in the intelligence community to accept and respect his leadership, which will elicit the trust of Congress and the confidence of the President and the respect of all Americans.

It is only fair to say that in preparing for this hearing during the research, this committee has come across information which has raised more questions than it has answered. Some of this information is very disturbing, if not disqualifying. I've been especially concerned about some of the questions that have been raised, and I have expressed those concerns to Mr. Sorensen personally and to representatives of Mr. Carter.

The major purpose of this hearing today is to give Mr. Sorensen the opportunity to respond to these questions for all of us to hear. His answers will have a direct bearing on how I and others will vote on this nomination.

Perhaps much of this information would not be so disturbing if we were considering Mr. Sorensen for a position other than the

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Director of Central Intelligence. The Director of Central Intelligence must be the keeper of the nation's most sensitive secrets. He must deal at arm's-length with the heads of intelligence services throughout the world, and he must command the complete and total confidence and trust of those of whom he will work.

And so it is with great concern that I approach these hearings. I'm confident that we will conduct them on a high level, one that is fair and yet very probing. All members of the committee appreciate the responsibility that we have. When these hearings are concluded, I hope the American people, President-elect Carter and Mr. Sorensen will be able to say that this committee has discharged their responsibility evenhandedly, carefully and fairly.

Thank you, Mr. Chairman.

SENATOR INOUE: Thank you very much.

The Chair has been advised that Senators Hathaway, Huddleston and Mathias would like to make opening remarks. And Senator Bayh. The Chair recognizes Senator Bayh.

SENATOR BIRCH BAYH: Mr. Chairman, I'm anxious to hear the witness. And so my remarks will be very short.

I've known the witness over a long period of time. I want to say that up front. And I'm proud of the kind of contribution that he's made to our country and under very difficult circumstances. There can be no question of the contribution he's made. He's now being proposed by President Carter for a different role, a different time. All of us are painfully aware of the activities that have been disclosed about the agency that he is now being called upon to head that has had a significant role in the slow erosion of confidence on the part of the people of this country. As the subcommittee chairman being asked by our distinguished chairman to chair the subcommittee that has the responsibility of looking into the area of the rights of Americans, I feel that our subcommittee will be particularly concerned about Mr. Sorensen's answers to some of the questions that will be raised. We'll be particularly anxious to hear his -- how shall I say? -- in light of his experience, how we as a congressional body can work with an intelligence gathering body to prevent the kind of abuses which have occurred in the past.

Having said that, Mr. Chairman, I'm anxious to yield and get on with the witness.

SENATOR INOUE: Senator Huddleston. Oh, Senator Hathaway.

SENATOR WILLIAM D. HATHAWAY: Thank you, Mr. Chairman.

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I have just a few remarks I'd like to make before listening to the witness testify. Mr. Sorensen, I know that you appreciate that the questions that will be asked with respect to the classification of documents are going to pose a terribly troublesome issue for all of us here today; troublesome, in my judgment, because I've admired your record in government, because you represent [to] so many thousands of Americans the vision, the idealism, the intellectual excellence which were the hallmarks of some very special years in American government and American history.

And I credit President-elect Carter for recognizing that a restoration of faith in our intelligence community requires those very qualities if our nation is to maintain the respect and confidence of peoples throughout the world.

It also seems clear to me, however, that in order for our intelligence agencies to best perform their very grave, solemn and often dangerous tasks, we have a special responsibility to insure that their top leadership enjoys the total respect, trust and confidence of the hundreds of dedicated men and women who are the unsung heroes of this work, the people to whom our government has entrusted one of its most important and significant missions, that of insuring the safety and the security of our nation.

I don't know how these people will view the events which we'll discuss here today, your candid admission in the past that the rules and methods designed to protect our country's most important secrets may not really be so inviolable after all. I do know from my recent travels for this committee that there is no greater concern to the intelligence agents of our nation that we here at home be cognizant of the risk that they undertake in our behalf and that they will never take any steps which would ever expose them to any greater danger than they already knowingly and willingly face. And I'm concerned about exactly what it is that has happened over the years that has brought about this state of affairs. Is it only a new post Watergate morality and someone has changed all the rules, and is that the plain of dialogue upon which this issue should be discussed here today? Or does the question really involve what you will suggest, Mr. Sorensen, the day in and day out breach of our nation's system for securing its secrets? And if this is so, is it not the role, and indeed the responsibility of this committee to look long and hard at the facts and circumstances which have brought about this state of affairs.

We are a nation of laws and not of men. And under our form of government and in order for our system to work effectively, individuals may not take it upon themselves to separately determine which laws should be obeyed and which ones may be ignored. I think that the task of changing bad law is for the Congress. And to this

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end, I have, and I know many other members have also, introduced bills in recent years to change our classification procedure, realizing that it is archaic, that it is out of date, and that it needs to be modernized. Nevertheless, at the time that you were involved with classified material, the law was archaic, to be sure. The question in my mind is -- and I anxiously await your answer to this broad question -- is whether or not any individual can take it upon himself to declassify, in effect, documents without following the regular procedure. And if such a person should do something like that, is that person the kind of person that we want to have as head of our national intelligence community.

Thank you, Mr. Chairman.

SENATOR INOUE: Senator Mathias.

SENATOR CHARLES McC. MATHIAS, JR.: So that we can get on with the hearing, I'd like to submit my statement for the record and say just very briefly that I think it's clear that our present system for conducting secret activities, indeed for limiting secrecy itself, is faulty. The affidavit submitted by Mr. Sorensen in the Ellsberg case is a very important document, I think, that illustrates the problem that faces the country. There has been overclassification of information. And without question, the rationale of national security has been used to conceal unwise and improper actions by high officials.

At the same time, every recent administration has either withheld or disclosed information using standards which, at best, would be called arbitrary. And I think we have to face the plain fact that our classification system is so faulty that information the public should know has been withheld, that injustices can take place, and that some improper disclosures have resulted in harm to the country.

Mr. Sorensen in his affidavit submitted in the Ellsberg case has described a pattern of behavior which has been too common in government. Other officials have given statements that confirm Mr. Sorensen's perception of the practice. But I think everyone should agree that strict standards requiring the maintenance of secrets cannot apply to come who serve in the United States Government and not to others. And yet this is the situation that we're now in. And a rigorous examination and reform of the classification system I think is an absolute necessity.

The nomination of Mr. Sorensen presents the opportunity to face these issues that must be faced in the fullness of their complexity, and I would add with some compassion for and awareness of the human mistakes of the past.

SENATOR INOUE: Thank you very much.

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It is now my pleasure to present to the committee a very distinguished American who has served this nation as a most effective voice.

I'm sorry, before proceeding, Senator Huddleston.

SENATOR WALTER HUDDLESTON: Mr. Chairman, in the interest of time -- and I think the important thing is to hear our witness, of course, today, the designate of the President to be Director of Central Intelligence. I'd just like to join the committee members in welcoming Ted Sorensen to this hearing and to point out that I feel very strongly that this is a very important occasion not only for this committee, but for the Congress of the United States. This is the first time that our Select Committee, which, in turn, is the first committee ever to have jurisdiction over all of the national intelligence activities of the United States -- the first time we've had an opportunity to review the background and the qualifications of an official whose jurisdiction mirrors our own. The Congress, I think, and the public have a right to see this as a test not only of Mr. Sorensen, but of congressional oversight of the intelligence community. As members have already indicated, there are areas in which we have a particular concern and of which I think rightly this committee and the Congress have a particular concern in developing the qualifications of a person to assume this very important post, with all of the responsibilities that it entails as to the security of this nation.

So Mr. Chairman, I would submit my statement for the record at this time and permit the Chairman to go ahead with the presentation of the witness.

SENATOR INOUE: ...The statement will be made part of the record.

Senator Biden?

SENATOR JOSEPH R. BIDEN, JR.: Mr. Chairman, I have a brief opening statement which could be either now or at the beginning of the questioning, whichever would be appropriate in the Chairman's mind.

SENATOR INOUE: What is your wish, sir?

SENATOR BIDEN: It doesn't matter. Whatever the Chair would like.

SENATOR INOUE: Would you like to give it now?

SENATOR BIDEN: Okay.

Mr. Chairman, these hearings on the nomination of Mr.

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Theodore Sorensen to be Director of the Central Intelligence Agency are the first -- in my opinion, the first great test this committee and the Congress will have to test its will to conduct an objective and thorough oversight on hearings with regard to the intelligence community. The days which I have spent preparing for these hearings have been for me, and I'm sure for many members of the committee as well, a most sobering experience. I consider Ted Sorensen to be a friend of mine. He's a nominee of the President-elect, a man of my party whom I enthusiastically supported for that job.

However, these facts cannot and will not affect my participation in these hearings in the process of considering the nomination. I view the office of Director of Central Intelligence -- of the Director of the Central Intelligence Agency as the most sensitive position in the government. It demands a person of excellent managerial skill, a person of intelligence, a person of great discretion, but, above all, a person who understands his responsibilities, the limitations of his authority under our laws and Constitution; a person who believes fervently in the rule of law.

I know Mr. Sorensen and I know that he has many, if not all, of these qualities.

The hearings thus far have concentrated upon one document, which, in many respects, focuses upon several of these issues. I'm referring to the so-called Ellsberg affidavit. This affidavit, in my opinion, raises two fundamental questions with respect to Mr. Sorensen's qualifications. Can he effectively balance the equally important competing interests of secrecy and the right of the people to know what their government is doing? Second, does he respect and understand the rule under which he will serve?

These are two questions I would ask any candidate for the DCI. And these are two questions I will ask Mr. Sorensen regardless of -- and would have asked regardless of the so-called Ellsberg affidavit.

In the case of the affidavit, both issues are intimately interrelated. The affidavit and Mr. Sorensen's testimony today create a very explicit record on his position on the relative importance of secrecy and the public right to know. On this question, we are not far apart. Mr. Sorensen says, in essence, that there is a need for secrecy and that overclassification is dangerous and counterproductive. As Justice Stewart in the Pentagon Papers case said, "When everything is secret, nothing is secret," and I am not disturbed by that position taken by Mr. Sorensen.

However, the question of how we formalize our process of classifying and declassifying the information and then the general

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question of what laws or regulations were or were not violated by Mr. Sorensen does disturb me. In the past two years in reports of intelligence community abuses, critics of the intelligence agency, of which I am surely probably perceived as one, have made much of the evidence of lawlessness that has taken place within that agency. We criticized Presidents for claims of inherent authority to act outside the law governing ordinary citizens. We criticized professionals in the intelligence agencies who've candidly admitted that they gave little, if any, consideration to the lawfulness or constitutionality of their actions.

I believe that a very strong case can be made that Mr. Sorensen did not violate any statute in the actions he took. I believe that the argument with respect to the various executive orders on classification may be closer. But quite honestly, I'm not sure whether or not Mr. Sorensen could be indicted or convicted under the espionage statutes or fired from his White House job if that were the issue.

The real issue is whether Mr. Sorensen intentionally took advantage of ambiguities in the law or carelessly ignored the law. If he did so, can he now bring the activities of the intelligence community within the strict limits of the law?

We expect that in the future of intelligence agency -- in the future intelligence agencies, and we will hold the Director accountable in that way. If that is to be the case, then we must hold the Director, the DCI accountable as well. If in the end I decide that Mr. Sorensen was either careless in his role as special counsel to the President with respect to the laws and executive orders in question, or if I think that he intentionally evaded the law, I will vote against his confirmation. I must say that I will do so, even though I believe that the current laws and executive orders are ambiguous and indeed opaque. I will, and I hope that the Congress generally will hold....

[Interruption of transmission.]

SENATOR HOWARD H. BAKER, JR.: ...Watergate hearings when I filed a separate report, which came to be known as the Baker Report, examining whether or not the CIA might have been involved in the Watergate affair. Incidentally, I concluded while I was a member of the Church Committee and so stated in my separate views that I found no evidence that the CIA, as an institution, was involved in Watergate. I felt, having first raised that question, that I owed an obligation to put that period at the end of the sentence. So I did that.

But I supported with great optimism and effort the creation of a Church Committee, which I became a member of, to examine further into the charges and allegations of misconduct of the CIA and the intelligence community, particularly relating

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to the charges of assassination plots, many of them during the Kennedy administration when Mr. Sorensen served in the White House, and many of them against Premier Castro of Cuba. I tried as hard as I could to participate fully in those proceedings and to contribute to the deliberations of that committee. And then to become a member of this committee after its creation as the first intelligence oversight function of the Senate was to me a signal opportunity and a great responsibility.

And so it's with great reluctance that I now assume the role of an ex officio member of this committee and a nonvoting member. But being a nonvoting member, maybe it also creates certain other opportunities that I would not have had in a more judicial, hopefully in a more judicious role as a voting member of the committee sitting in judgment on this nomination. Maybe I can be a little more straightforward and frank than I would be if I were going to vote on it in this committee. Maybe I would not say that I think that this is a bad nomination, but I do think that, not necessarily because I think Mr. Sorensen's unqualified. I think he's a very qualified American and a loyal and dedicated citizen. But because I think in view of the extraordinary difficulty that the intelligence community has been through in the last few years, the beating and the battering that it's taken partly at my behest to investigate these charges and allegations, because of the extraordinary difficulty of the recent past with the intelligence community, I think that a good nominee for Director of Central Intelligence ought to be someone who is beyond reproach and above criticism and would immediately and instantly engender the confidence of the intelligence community of this country, of other countries and of this government and the Congress of the United States. And it's with reluctance, but candor, I trust, that I say I don't think this nomination fits that prescription.

Mr. Chairman, if I were a member of the committee with a vote, I would say and do precisely what the members on both sides of the aisle have done here today, and that is hear and judge the proof rather than express the opinion that I have just expressed as an ex officio and nonvoting member of the committee. And I reserve the right to change my mind. I will study these hearing records. I will listen carefully. And I will reserve the right to change my mind.

But my great concern, Mr. Chairman, is that in the recent past there's been so much controversy, there's been so much suspicion, so much uncertainty, so many answered and unanswered questions about the function and propriety of the intelligence apparatus of this country, so much debate about the future of intelligence, the necessity or absence of the necessity for covert action, the propriety of classification, the question of presidential knowledge or plausible deniability, of the involvement of Presidents or the absence of involvement of Presidents

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in assassination plots; not one or two, but fifty or sixty perhaps in administrations going back to the '50s; there's been so much controversy that I had very much hoped that the President-elect would send us a nominee who was beyond controversy and above suspicion.

And I reserve the right to change my mind. But Mr. Chairman, I felt that I ought to say that I'm concerned for this nomination, and I will look with great interest to these hearings.

SENATOR INOUE: Any further remarks?

UNIDENTIFIED SENATOR: Mr. Chairman, I'll reserve my statement until such time as....

SENATOR INOUE: Thank you. If not, it is my pleasure now to welcome to the committee a very distinguished American who has served with great distinction as our voice and our representative in the United Nations. He now serves us and serves the people of New York as its voice. I'm certain he will be a fine representative of the people of New York.

Senator Moynihan has asked the committee to be given the opportunity and the privilege to present to us the nominee, Mr. Theodore Sorensen. Mr. Sorensen, I think you're most fortunate to have Mr. Moynihan presenting you, sir.

It is now my pleasure to recognize the junior senator from the State of New York, Mr. Moynihan.

SENATOR DANIEL PATRICK MOYNIHAN: Thank you, Mr. Chairman. And may I say I'm more than sensible of the honor to appear before this committee. And to you, sir, and to the members of the committee, I now have the honor to introduce to the committee Mr. Theodore C. Sorensen of New York, who is the designee of the President-elect for the post of Director of Central Intelligence.

I introduce him, of course, only in the formal sense of presentation. There will not have been a single member of this committee who upon learning of the President-elect's intended nomination did not instantly recognize the name and immediately associate the man with a still shining moment in American history, the presidency of John F. Kennedy. For my part, I will always remember him standing in the hallway of the West Wing of the White House on that afternoon of November 22nd, 1963 when silently somehow the knowledge passed among us that the President was dead. And with that, for me, and I expect for many others there, the further realization came that of all who would be stricken, none, apart from the President's own family, would feel the hurt more deeply or bear the pain longer than Ted Sorensen. When minutes later Hubert Humphrey arrived to be with us, we young men of the

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Kennedy moment, in what was to be in ways our last time together, he embraced Ralph Dungan and exclaimed in anguish "What have they done to us?" And again one thought of Ted Sorensen.

Well, they didn't break us, no more than they did Hubert Humphrey. But just as surely much ended that day, not least a sense of ordained security, of innate invincibility which permeated the consciousness of even those among us most sensible of the dangers which America and American ideals faced in an increasingly hostile world.

Somehow we had thought it would all come out right in the end. We really had thought that, notwithstanding what we said or how we acted. Well, it didn't of course, not for us. And the lesson of danger, of concealed threat, of ambush, of tragedy marks us even now, I dare to say, as a kind of generation. None learned this lesson more profoundly than Theodore C. Sorensen. It was surely this fact, combined with his formidable and undiminished powers of analysis and exposition, these qualities in him which prompted Governor Carter to offer him the post of Director of Central Intelligence, just as we may also feel certain it was Mr. Sorensen's sense of the present and prospective dangers faced by the American Republic which prompted his agreement to return to the public service, a return which President Johnson in a parting letter thirteen years ago predicted one day would come, for government would necessarily turn once more to this extraordinary man before too many years had passed.

Unhappily, in the interval since that time, the atmosphere of public service in the nation's capital has not improved. I have been pained to hear questions raised concerning Mr. Sorensen's qualifications owing to personal convictions which he has or had concerning the taking of human life. Surely we are not about to impose religious qualifications for public service at this late date when persons of conviction have become so few as to make the issue increasingly moot.

I would then respectfully urge the committee to direct its concerns, as I know it will, Mr. Chairman, to the issues of competence and of integrity, of vigilance and of loyalty which are of large and proper concern to you all. Here, it seems to me, the thing speaks for itself; in the formulation of the common law, res ipse locitur. Intelligence will breed intelligence. Theodore Sorensen will carry on in the tradition, too brief, but already productive stewardship of George Bush. The agency and the presidency and the nation will be well served.

I feel certain that the members of this committee will share with me the conviction that in making this appointment, the President must also be concerned that the interest and sensibilities of the intelligence community, of the men and women who

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make up that community will also be taken into consideration.

I've had the honor, Mr. Chairman, to serve in the sub-cabinet or cabinet of four Presidents. In the course of that service, I've come to hold the men and women of the Central Intelligence Agency, in particular, in the highest possible regard. As professional analysts, as government servants, and, if you will not mind the term, as patriots, they have no equal as a court.

Theodore Sorensen is a man who will understand them and who will know that they have -- and in whom they will see not merely a channel for their work into the innermost policy circles of the American government, but an advocate of their work as well.

Mr. Chairman, on Friday last, fourteen members of the New York State delegation in the House of Representatives sent to Governor Carter a letter commending him for the nomination of Mr. Sorensen to this post. With your kind permission, I would ask that this letter be made part of the record of this hearing.

I thank you, Mr. Chairman, for the privilege of introducing my friend to this audience.

SENATOR INOUE: Thank you very much, Senator Moynihan.

Mr. Sorensen, will you please rise. Raise your hand. Do you, Theodore Sorensen, swear that the testimony you're about to give is the truth, the whole truth and nothing but the truth?

THEODORE C. SORENSEN: I do.

SENATOR INOUE: Mr. Sorensen, welcome to the committee, sir.

SORENSEN: Thank you.

Mr. Chairman, members of the committee, I'm grateful for this opportunity to share with you my views on President-elect Carter's decision to nominate me for the post of Director of Central Intelligence and to answer the scurrilous and unfounded personal attacks which have been circulating against me, largely on an anonymous basis.

I did not seek or lightly accept this assignment. And some of my friends have suggested that anyone agreeing to take this job lacked either the fantasy or the judgment necessary to fulfill it. I recognize that the successes of the intelligence community are largely unspoken while its errors are roundly assailed; that it is often accused of deeds that it never committed or that it undertook at the request of higher authority;

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and that the agency and its employees are rarely able to defend themselves publicly against these attacks. In recent days I've had the same experience. But I do not intend to be intimidated by those who wish to strike at me or my policies, or through me at Governor Carter, by personal attack on my integrity and probity, grossly distorting the facts and maliciously twisting my words.

I prize both my country and my honor too greatly to desert this post under that kind of cloud. And despite the prejudgments already voiced by some members of the committee before I had been heard, I'm here to appeal to the sense of fairness of the members of this committee.

I recognize that some of you have legitimate questions concerning my qualifications. But before dealing with those questions, I must as a matter of personal privilege respond to the personal attacks upon my character which my nomination has suddenly stirred.

First, it has been said that I leaked or otherwise conveyed classified information for political or personal purposes, or took it upon myself to declassify documents or ignore or evade the law. That charge is totally false. In the White House I drew upon classified materials in backgrounding the press only when I was specifically directed to do so by the President, who clearly had such authority. And I took documents home for review only in those rare instances when I would otherwise have spent twenty-four hours a day in that office.

Judging from the opening comments of some members of this committee, they have never leaked secret information to the press, and I commend them for that unique standing. But speaking for myself, I have never compromised the national security of this country or approved of anyone else doing so. My affidavits in the lawsuits brought against the New York Times and Daniel Ellsberg regarding publication of the Pentagon Papers accurately described the practices then prevalent in Washington, not as I thought they should have been, but as they were.

UNIDENTIFIED SENATOR: Mr. Chairman, are those affidavits in the record?

SENATOR INOUE: It will be placed in the record.

UNIDENTIFIED SENATOR: I wonder if [that] could be done now so that there'd be no question about the test of them under Mr. Sorensen's testimony. He has referred to them. That's the reason I raise it now.

SENATOR INOUE: Can't you wait until we've finished?

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UNIDENTIFIED SENATOR: We can. But he's referred to papers that are not in the record. And that's the reason I thought it might be done. He might want to put them in himself.

SORENSEN: I'd be very glad to do that, Mr. Chairman. And I would ask that the affidavits filed in the case against the New York Times be submitted as well as the affidavit submitted in the case against Daniel Ellsberg. For some strange reason, all of the anonymous attacks have referred only to the Ellsberg comment -- affidavit and not to the New York Times' affidavit.

SENATOR INOUE: Mr. Sorensen, I will -- in compliance with the request made, I will show you an affidavit in the case of United States of America v. Anthony Joseph Russo, Jr., Daniel Ellsberg, Defendants, State of New York, County of New York, and dated -- what's the date there? And dated the 30th day of June, 1972. Mr. Sorensen, this is the typed copy of the original. May I show this to you, sir?

I also have another affidavit in the case of The United States of America v. New York Times Company. This is date June the 17th, 1971. I show you this also.

Th affidavit in the case of The United States of America v. Russo and Ellsberg, is that an affidavit which was submitted by you, sir?

SORENSEN: I'm assuming that it is a copy of the original. Yes, sir.

SENATOR INOUE: And in the case of The United States v. New York Times, is that also an affidavit which was submitted by you in this case?

SORENSEN: I'm assuming it is a copy of the original. Yes, sir.

SENATOR INOUE: Without objection, the Ellsberg affidavit will be placed in the record as Exhibit A, and the New York Times' affidavit as Exhibit B.

Please proceed, sir.

SORENSEN: I'll repeat my last sentence. My affidavits in the lawsuits brought against the New York Times and Daniel Ellsberg regarding publication of the Pentagon Papers accurately described the practices then prevalent in Washington, not as I thought they should have been, but as they were. Almost identical affidavits were submitted by a former Assistant Secretary of State, a former State Department legal adviser and a former ambassador.

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During my White House service, I received the highest security clearances from the CIA, and I received them again in the last few weeks. Indeed, I have something of a reputation for guarding secrets, whether they be those of my government, my clients or my friends. No one has ever charged me with conveying classified information to others or mislaying classified material.

Second, it has been said that I improperly took classified documents with me from the White House when I left government service, improperly used them in writing my book on President Kennedy, and improperly obtained a tax deduction for donating them to the John F. Kennedy Library. Those charges are totally false.

Upon the announcement in early 1964 that I was leaving the White House, I was visited by the Assistant Archivist to the United States, an official in the General Services Administration. He informed me that the papers in my files that I had created and accumulated during the period of my service in the White House were regarded by both law and historical precedent as my personal property, and further that I was entitled to make any use of those papers that I deemed appropriate, whether selling them, as some former White House aides had done, writing books based on them, as other former aides had done, or donating them to an appropriate educational institution with a tax deduction on the value of the gift, as still others had done. This was the law conveyed to me by the Archivist of the United States.

Upon my signing on February 14, 1964 a letter of intent to donate my papers to the Kennedy Library, the Archivist Office sorted and packed my files, presumably leaving behind anything that was not mine, and transferred them to a GSA depository in the Boston area. The GSA then sent to my home in Massachusetts certain of those papers which I had selected as necessary background material for my book.

The GSA collected them from me upon completion of my manuscript, and the entire lot of my papers was then transmitted to the John F. Kennedy Library, to which I donated them.

Naturally there were classified papers among them, although no communications intelligence reports, just as there were classified documents among the papers taken upon their departure from the White House by the principals of every President, at least since Woodrow Wilson, including Colonel House, Samuel Rosenman, Harry Hopkins, Sherman Adams, McGeorge Bundy, and many, many others. Like most of those named, I reviewed my papers, including classified papers, in preparing a book on my experiences just as Gerald Ford at his confirmation hearing acknowledged drawing upon top secret documents in his possession when writing his book on the Warren Commission. In the decade since my book

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was published, no one has suggested that security was in any way breached by anything in my book. And it was in fact submitted for clearance in advance to the National Security Adviser to the President, to his former deputy and to the former Deputy Secretary of Defense. My handling of classified information was at all times in accordance with the then-existing laws, regulations and practices.

Upon donating my papers to the Kennedy Library, instead of selling them individually for a far larger amount, I received the tax deduction to which I was entitled by law, just as many former government official did over the years, including, in addition to all of those already mentioned, former Ambassador Galbraith, former White House aide Arthur Schlesinger and former Governor and Ambassador Adlai Stevenson. No doubt arguments can be made against the practice begun by George Washington of White House occupants taking their papers with them. John Eisenhower has recently stated, for example, that his father inherited from Truman and left the Kennedys no papers other than instructions on nuclear attack procedures. But at the time I took my papers in 1964, that was clearly the accepted view of the law.

No doubt arguments can be made against permitting deductions on the donation of papers by former government officials, and such arguments were made when the law was changed in 1969. But that was nevertheless the law prior to that time.

All of the above actions were taken with the full knowledge and approval of the United States Government and were publicly described in the well publicized affidavits which I filed in the New York Times case and subsequently in the Ellsberg case. Those two cases involve important First Amendment issues, including the public's right to know the tragic history of the Vietnam war. Whatever improvements might have been made in the wording of my affidavits, I make no apology for having responded to the requests of counsel in both cases to attest to the inconsistencies and anomalies of government classification practices.

Third, it has been said that I avoided military service as a pacifist during World War II and the Korean War. This charge is totally false. I have never sought to avoid military service, hazardous or otherwise, in wartime or any other time. I have never advocated for the United States a policy of pacifism, nonresistance to attack or unilateral disarmament. The facts are that I registered for the draft upon becoming eighteen years of age in 1946, a year after World War II ended and shortly thereafter expressed the philosophy of nonviolence, with which I had been reared by two deeply idealistic parents, by requesting not an avoidance of military duty or hazardous duty, but military service in a non-combatant capacity, classification 1-A0, preferring, by way of illustration, to serve on the battlefield as a medical corpsman

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saving lives instead of taking lives. This status was granted. My action was largely symbolic inasmuch as our country was not then at war or expected to go to war.

I have never in my service on the Executive Committee of the National Security Council during the Cuban Missile Crisis or any other time permitted my preference for personal non-violence to inhibit in any way my advice to the President on the military and other options available as a matter of national policy. I would not have accepted Governor Carter's designation to be Director of Central Intelligence were I not prepared to carry out every lawful order of the President conceivably connected with this post.

Fourth, it has been said that my legal representation of multinational corporations and foreign governments poses a conflict of interest in undertaking this assignment. This charge is patently absurd.

Over the years, the highest national security officials in our country have frequently represented such clients before taking office, including Messrs. Dulles, Acheson, Rogers, McCloy, Stevenson and a host of others. But no one challenged their right to serve or later claimed that their actions were prejudiced because of those earlier ties.

My only representations of foreign governments were the brief occasions on which I represented the governments of Iran, Zaire, Sierra Leone and New Foundland in commercial disputes or negotiations. In no country did I have any connection with or firsthand knowledge of any activities of either their intelligence agencies or our own. Nor do I have now any obligations or prejudices regarding any foreign country which would interfere with any official duties.

The fifth and final charge is the suggestion that I must have been somehow involved in the Kennedy White House plot to assassinate foreign leaders. That charge is totally false. I have previously testified under oath, and I do so again today, that I knew nothing of such plots. And no one who did has ever stated or ever could state, nor did your predecessor committee find or suggest that I was informed or involved in any way. The record is equally clear that I had no advance knowledge or involvement of any kind in the Bay of Pigs or in any CIA covert operations.

Mr. Chairman, far more than any job or title, I value my good name. I deeply resent this reckless scattering of baseless personal accusations in order to suppress a different point of view. I respectfully ask this committee, whatever the fate of my nomination, to consider the evidence submitted today and previously submitted to your staff director and to make it clear that these personal charges are wholly false and without foundation and not

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the basis for the committee's view of my nomination.

With these personal charges out of the way, we can turn now to the question of my qualifications, to legitimate questions raised by those with whom I respectfully disagree, but who are entitled to raise what they regard as valid questions.

There are basically two such questions. First is the question of my experience in intelligence. I was an observer at National Security Council meetings and a reader of intelligence reports in the White House. And I worked closely with the CIA and other national security officials during the Cuban Missile Crisis. I have since leaving the White House written and lectured widely on international affairs and engaged in negotiations with dozens, if not hundreds, of top foreign officials. I was requested by the Ford White House a year ago to provide advice and consultation on its reorganization of the intelligence effort. My qualifications for this post have been endorsed by John McCone, Clark Clifford, Averell Harriman, Admiral Elmo Zumwalt, General James Gavin and others who know of my work.

Most importantly, I was chosen by the President-elect as someone sufficiently in his personal trust and confidence to bring him the hard, unvarnished, unpleasant facts and to reject any improper orders, whatever their source, as someone who possessed the integrity necessary to continue the task of restoring public trust and confidence in the CIA and earning that trust and confidence by keeping the agency accountable and free of abuse, and as someone with the degree of intellect and independence required to protect the integrity of the intelligence process from outside pressures and politics.

But I recognize that there are those inside and outside of the intelligence establishment who disagree with the Murphy Commission recommendation that an outsider always be named to this post, who refuse to recognize the totally nonpartisan leadership provided by George Bush as DCI, despite earlier concerns about his partisan background, or who see no value for this post in a lawyer's sensitivities to civil liberties and lawful conduct. These people believe that only someone from inside the military or intelligence establishment has the experience necessary for this job.

I disagree.

Second is the question of my views. Although as previously indicated I am not a pacifist, I do favor a foreign policy that prefers, where possible, the risks of peace to the risks of war. Although as previously indicated, I fully recognize the need for legitimate government secrecy, which is in fact weakened by overclassification, I do believe in the right of the Congress and

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public to receive far more information than they presently do from all government agencies, including the CIA. I believe, as well, in the application of moral and legal standards to national security decisions, including the limitation of covert operations to extraordinary circumstances involving the vital national interests of our country, with timely review by the appropriate congressional committees and written authorization by the President and his senior cabinet officials.

There are those who disagree with these views and who regard them as incompatible with the duties of the Director of Central Intelligence, paying little heed, apparently, to the fact that the Director's real responsibility is to provide leadership to the intelligence community and objective intelligence, not policy, to the President and his policy-makers.

These critics prefer to view this post as part of the national security decision-making apparatus and prefer in that post understandably someone with policy commitments more like their own. Obviously, I disagree with that view as well.

But it is now clear, Mr. Chairman, that a substantial portion of the United States Senate and many members of the intelligence community are not yet ready to accept as Director of Central Intelligence an outsider who believes as I believe on these two legitimate questions. It is equally clear that to continue fighting for this post, which would be my natural inclination, would only handicap the new administration, if I am rejected, or handicap my effectiveness as Director, if I am confirmed.

It is, therefore, with deep regret that I'm asking Governor Carter to withdraw my designation as Director of Central Intelligence. My regret stems not from my failure to get this post, but from my concern for the future of our country. I return to private life with a clear conscience.

When my nomination was announced on Christmas Eve, my youngest son said to me "Now you will have to do some things you don't want to do." And I replied, "I never will." I have never compromised my conscience, and I'm unwilling to do so now in order to assure my nomination.

I want to thank you, Mr. Chairman and members of the committee, for hearing me out and for the courtesies you have extended to me over the past few weeks. I will be glad to answer any questions you think necessary and answer those of the press immediately after the conclusion of this hearing.

SENATOR INOUE: Mr. Sorensen, needless to say, this was not expected. The committee was prepared to proceed. I

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know that this has been a difficult time for you. And may I say it has been a difficult time for the members of my committee. But knowing Theodore Sorensen, I'm sure that this painful episode will not in any way dampen his interest and concern in the well-being of this country, because I'm certain your love for your country will continue.

We're all aware of your great service to this country since 1951. And I think it would be a great loss to us if you decided not to continue this position of service. I'm certain you will not fail us.

If it is of any consolation to you, sir, this committee has received a report from an agency of the intelligence community, incidentally one of the toughest agencies, one that is required to clear all nominees, the Federal Bureau of Investigation. The Federal Bureau of Investigation has given you a 4-star rating, consider you loyal, patriotic and should be considered for any classified position.

I'm sorry that I cannot make that report part of the record, because it is not a type of report that can be made part of the record. But I can tell you, as Chairman of this committee, having seen the report -- and I welcome all the members of my committee to look at it -- you have been given a 4-star rating.

Mr. Sorensen, I hope that you will not leave with -- you will not leave this room with bitterness, although there is justification for that. I hope you will leave this room knowing that we have tried to do our best as members of the United States Senate and as members of this committee.

I thank you for having considered this nomination, and, as chairman of this committee, I await the pleasure of the President of the United States.

SENATOR GARN: Thank you, Mr. Chairman. I would just like to say that I had the opportunity this week to visit with Mr. Sorensen at quite great length on two different occasions. And I'd like to say publicly what I said to Mr. Sorensen on Friday. And I had great respect for his ability and his intelligence, that at no time did I feel that he had deliberately or with any intent taken classified material that would harm this country. I told him that personally. I say it publicly.

I also told him in that particular meeting that in the research that we'd gone into in great detail that he was an extremely moral man, finding in personal notes and so on that he had written when he was in the White House, even turning down the offer of a couple of theater tickets because he did not feel that it was proper in his position to accept a couple of seven or eight dollar theater tickets.

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Mr. Sorensen, I wanted to say that to you publicly, not just privately. You know I had some concerns about the nomination, not to your honesty or integrity or your ability. But I used the phrase I felt the wrong man for the wrong position, and that Secretary of HUD, HEW or someplace else, that you would be an extreme asset to the new President of the United States.

I know this has been a difficult decision for you. I personally have appreciated the opportunity of getting to know you this week, and I wish you well in the future.

SENATOR INOUE: Senator Biden.

SENATOR BIDEN: Mr. Chairman, I think it should also be pointed out that at least the preliminary memorandum done by my staff and members of the staff, that the questions which I was going to raise about the espionage laws, as to whether or not they were violated, the conclusion of the staff was there was no violation. And in fact, there's no evidence that any law has ever been violated by Mr. Sorensen. And I'm sorry that it's not going to be made part of the record in terms of being able to flush out this entire area so that it would aid us further in formulating a revision of those unclear laws.

But I should say that it's emphatically clear in my opinion, and I think in the tentative opinion of the staff memorandum, that there was no violation of any law. And I would also like to point out that, Ted, you're one of the classiest men I've ever run across in my whole life.

SENATOR GARY HART: Mr. Chairman, much is said in these halls about presumptions attaching to nominations by the President of the United States. And it seems to me in light of what's happened here today that if we're serious about honoring those nominations and those recommendations, it would be well for committees of the Congress, and particularly of the Senate, which have the obligation of confirmation, to honor that presumption and at least let a hearing go forward before all members, or a majority of the members of those committees make up their mind as to how they intend to vote. Otherwise it seems to me to make a mockery of the hearing and confirmation process.

I, for one, am extremely saddened by what has occurred. I don't believe Mr. Sorensen has received his day in court, and I'm afraid his case was prejudiced at the outset.

SENATOR INOUE: Senator Hatfield.

SENATOR MARK HATFIELD: Mr. Chairman. Mr. Sorensen, I think you know that I've been a long-time admirer of yours.

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And I applaud your statement here today. Not that I had to hear your statement today to be fully convinced of the rather exaggerated claims made under the charges. But I do feel that your statement today again affirms, in my mind, and should affirm in the total public's mind, the integrity of your personal character and your marvelous public record, even before it was necessary to do so publicly.

I want to applaud you, salute you and say that in no way has this incident ever diminished my opinion, my high regard for you personally.

SENATOR INOUE: Senator Morgan.

SENATOR ROBERT B. MORGAN: Mr. Sorensen, I say to you that you've made a very excellent presentation this morning, and Senator Moynihan has made one on your behalf. On the two occasions on which you and I talked, I think you will recall that I expressed to you my reservations about your appointment to this particular job, but also the esteem in which I held you and the work that you'd done in the past.

I must say to you that as I flew to Raleigh last night with the briefing book and read in that briefing book the proposed statements to be made before this committee by at least two organizations, if not more, I was -- I found myself somewhat in a dilemma, because many of the remarks in those statements were so intemperate that I hesitated to even be associated with any sort of opposition whatsoever.

I hope you understand that my reservations about your particular appointment to this job was not for the purpose of expressing a different point of view, but were reservations founded on what I believe to be real reasons.

SENATOR INOUE: Senator Bayh.

SENATOR BAYH: Mr. Chairman. Mr. Sorensen, I am distressed at the turn of events. It's rather obvious that some of these political, personal references to you were the ultimate in political poppycock, efforts to desecrate your character. I think anybody who'd studied the case knew there wasn't a question of laws being violated, of a man in high public trust intentionally undertaking to do damage to the country. And you quite accurately pointed out, sir, never in the publishing of your books and speeches and articles -- never has anyone laid a charge on you of damaging the security of this country.

The concerns that I had, very frankly, were concerns that came from your own mouth or pen, the disclosures in the affidavit, the recognition that one of the major responsibilities that you had was, as I recall you said this morning, the task of

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restoring public trust and confidence.

Now I was hopeful, frankly I was confident that in the hearings, as we heard about past practices, as we had a chance to read into the record for all the world to know, as some of us have known, your personal sensitivity to these problems, that this matter would be laid to rest and that the problem of confidence restoring could be proceeded with. I must say I think what you've done is a rather gutsy thing; that I was hoping that this committee could take advantage of your presence here, not only to move ahead with the restoring of confidence with you as the Director of CIA, but to take advantage of this rather unique experience you had of past classification, past practices, to advise us, as we proceed with our mandate not only of oversight, but of drafting wiretap legislation, mail opening, surreptitious entry, the charges that our subcommittee and this committee as a whole has put together. I would hope, if this is not the appropriate time, that we could get your assurance to let us have the benefit -- what information should be kept secret? You're in a unique position to tell us that.

And one last thought, Mr. Chairman. I've already said more, I guess, in the time than is appropriate. It's hard to separate one's personal feelings from one's responsibilities. But I have to confess to you that one of the reasons I was hoping we could put this matter to rest and proceed with you as Director of CIA is that I am painfully aware, as I'm sure you are, and hopefully most of this committee is, that some of the people are out to get you not because of what you said in that affidavit, but because they don't want a clean broom at CIA. And this committee is going to have a clean broom and a Director that can bring objectivity into that important post.

SENATOR INOUE: Senator Hathaway.

SENATOR HATHAWAY: Just thirty seconds, if I may, Mr. Chairman. I don't want to keep Mr. Sorensen here any longer knowing how he must feel after having made the statement he just made. I just want to say that I respect your decision, respect your judgment, and say that you were -- you were a big man when you entered this room, and you're going out an even bigger man.

Thank you very much.

SENATOR INOUE: Mr. Huddleston.

SENATOR HUDDLESTON: Mr. Chairman, as one who developed some concern about this nomination, I, too, would like to say that never in my consideration of this designee was there any question in my mind about his loyalty, about his integrity and dedication to this country, and his intelligence, or even in his

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ability to administer the job which he was designated for.

I voted against George Bush for that position. As a member of the former Committee on Investigations of our intelligence, I felt that Mr. Bush did not have the sufficient background to fill that job. I was wrong on that vote. I think George Bush did become a very effective and competent administrator of our Central Intelligence.

I'd just like to say that I've never been persuaded one ounce by those who I think had a personal axe to grind in relation to the nomination of Ted Sorensen. I came to this committee hearing with an open mind. I came seeking and hoping for reassurances. And I'm sorry we don't have an opportunity to receive those reassurances.

Thank you, Mr. Chairman.

SENATOR INOUE: Thank you. The Chair has received requests from two senators who are not members of the committee to make brief remarks. I'm certain that there'll be no objection. I'd like to recognize at this time Senator McGovern.

SENATOR GEORGE MCGOVERN: Mr. Chairman, I'm deeply distressed at what has happened here today. I was not aware that Mr. Sorensen was going to withdraw his name. But I have a brief statement which I'd like to give to the committee, as I had prepared it, because, as far as I'm concerned, nothing has changed about these judgments. I'm known all of the Directors of the agency during the past twenty years. And I'm convinced that Ted Sorensen is as well qualified, if not better, to head this agency than any of those predecessors. His experience, his judgment, his reliability, his intelligence are all stronger than we are accustomed to in this office. I've known him as a friend, as an associate, as a dedicated public servant, as a presidential confidant and as an eminent attorney. He's a man of intense patriotism who can be relied upon absolutely to put the national interest first and foremost at all times.

It's because I know his qualities of mind and character so well that I deeply resent the scurrilous attacks that were unleashed against him this past weekend. I think they're a disgrace to decency and to justice. Certain, for the most part unidentified people have leaked a variety of stories to the press designed to prejudice the nomination of this man. And I think that's the real reason this withdrawal took place this morning. The campaign waged against him has not been equalled since the days of the late Joe McCarthy.

Now what is being said of Ted Sorensen? They say, first, that he doesn't have experience. The truth is he has more experience in both national and international affairs than the

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President-elect who nominated him. The Director of the CIA does not need to be an experienced spy or an experienced break-in artist. If on-the-job experience in such activities were needed in the Director's office, we should be seeking out H. L. Hunt or James McCord or J. [sic] Gordon Liddy. But these experienced CIA men have all been sent off to jail, which is one way of reminding us that what the CIA now most needs is a Director of sound moral character, with knowledge of American legal and constitutional principles and a clear sense of the national interest.

Ted Sorensen has all of these qualities.

To talk about experience, he was the White House counsel under the late President Kennedy. He was a trusted aide of John Kennedy during all of his years in the Senate. He travelled the length and breadth of this land during his long four year bid to the presidency. And in the White House he was the principal drafter of the great messages President Kennedy delivered to the nation and the world.

But beyond this, he was a trusted adviser in every area of government, including many matters involving the intelligence functions. He saw at firsthand the operation of the governmental process. And Mr. Chairman, I think few if any men ever to serve as Director of the CIA brought to that office the wide-ranging experience of Mr. Sorensen.

It is said that he took government papers, including classified papers with him when he left the White House. But this is not something that he has concealed. The committee has these affidavits because they were volunteered by Mr. Sorensen at the time of the public trial of Daniel Ellsberg. He gave this affidavit as a means of demonstrating a fact of life, which is that it's customary for White House aides to take their files with them when they leave government service.

It is said that he leaked classified information. But he has assured this committee, as he has others who've asked him about it, that he never released classified information except when ordered to do so by the President of the United States. Nor has anyone demonstrated how anything he ever released under presidential order damaged this nation in the slightest. If certain senators are so incensed about the practice of leaking, how do they explain their own conduct in anonymously leaking reports about Mr. Sorensen? And why don't they get more incensed about the persons who in recent days have leaked the classified CIA estimates of Soviet military strength relative to American military strength? What about the constant leaking by the Pentagon of classified informations on weapons systems?

One unnamed senator was quoted in yesterday's Post as

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follows: "The job requires a man of authority, a man who can control the entire intelligence community, a Jim Schlesinger, not a Sorensen. The Director of the largest intelligence service in the world is a leaker. It undermines the whole intelligence effort. It raises questions about his judgment." End of quote.

I submit, Mr. Chairman, that a statement like that raises questions not about Mr. Sorensen's judgment, but about the judgment of the anonymous senator. That senator appears to be more accomplished at leaking than at judging. If he regards leaking as the most serious offense of the CIA, what does he think about the agency's record of attempted, but bungled assassination efforts, its working alliance with the criminal underworld, its crude efforts to subvert independent governments, its secret wars, its shabby un-American performance for so many years in so many places?

It is these shameful self-defeating practices that jeopardize the CIA. And it must be brought under control if that agency is not to continue discrediting the good name of the United States.

Finally, Mr. Chairman, Mr. Sorensen is the kind of man who would know what his agency is supposed to do well and what it was not supposed to do. And I sincerely had hoped for the sake of this country that he would be confirmed in the important assignment for which President-elect Carter has selected him. On the basis of what I know about this nomination and on the basis of what I've heard said about it in the press this past weekend, I can only conclude that if it is being rejected, we can mark down that the ghost of Joe McCarthy still stalks the land.

And Mr. Chairman, I can't tell you how deeply distressed I am personally, and as one who loves this country, at the shameful experience we've come through this past weekend. I think it's a dreadful beginning for a new administration to be dealt a blow of this kind. I deeply resent it. I'm deeply concerned for what it forebodes for this country.

SENATOR INOUE: Thank you very much.

I believe I owe it to the committee and to the members of the staff to address myself to the suggestion that we have leaked information to the press. I can say without reservation that the members of this committee, members of the staff have not leaked any information to the press. The documents in question, the two affidavits were not classified material, to begin with. They were matters of public record. As one member of the committee, I can assure you that no member of the press ever got to me. I would like to express my apologies now for not

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answering the telephone. It was a miserable day this weekend, yesterday and the day before.

But I don't wish the record to show without any response that we have been responsible for leaks. As Chairman of this committee, I'm proud to serve in this capacity, and I can say that this committee has done its best during its eight months. And I'm certain the members of the press will concur with us that this is one committee where the leaks are almost non-existent. And I hope that we continue in this fashion.

Senator Metzenbaum.

SENATOR HOWARD METZENBAUM: Mr. Chairman, I came to this committee because I had sort of felt building up the kind of pressure against the confirmation of Mr. Sorensen and because I've known Mr. Sorensen over a period of many years and because I was predisposed to support his nomination, that I had to hear for myself what the evidence was, that I could not really believe that Mr. Sorensen, with his distinguished record of public service over a period of many years, could really have been, quote, "guilty" of some of the scurrilous things that have been said about him in recent weeks.

I think it's a sad day when a man is nominated, as has been Mr. Sorensen, and that before the evidence is in, before any evidence is heard, that his reputation, his personal reputation is put in the kind of aura that has occurred with respect to Mr. Sorensen.

I think Mr. Sorensen withdrawing his nomination bothers me much. It bothers me for him, but it bothers me more for the country, because it means to me that other men who don't fit the necessary mold of those who think they know who should be the head of the CIA or who should hold a particular position in government will be able to build up a climate of public opinion, making it necessary for the nominee to withdraw his name.

I think the individual loses, but I think the country suffers far more, not alone with respect to the one individual who withdraws his name -- and I empathize with Ted Sorensen in that respect -- but with all of those other individuals who are unwilling to submit their names because they, too, may suffer the same kind of castigation without justification, without cause. I think the country has suffered a great loss today. And I'm sorry Mr. Sorensen saw fit to withdraw his name in consideration of this committee and the United States Senate.

SENATOR INOUE: Senator Baker.

SENATOR BAKER: Mr. Chairman, I thank you very much.

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I would express the same surprise that the Chairman did when he indicated that he had not expected Mr. Sorensen to withdraw his nomination. In a way, I'm sorry. I'm genuinely sorry that we did not know of that situation ahead of time. It might have been possible to handle this situation in a different way with great sensibilities -- in respect for the sensibilities. But that was not the case.

I think Mr. Sorensen has done a brave and generous thing today. I think it was brave in that it required a degree of personal determination and careful searching of his own situation, his own viewpoints and ideas in this respect, a generous thing in that it has, I believe, avoided a conflict which was sure to ensue, which would have created an unfavorable and probably an unpleasant, certainly a unpropitious beginning for a new administration during inaugural week. So I think what Mr. Sorensen did today was not only electrifying, but it was brave and generous. I commend him for it.

I would only add this, Mr. Chairman, if I may. I underscore what you said previously. I know of no leak of any information, certainly no significant information, from this committee, either members or staff. And I don't say that by way of defense, but rather because I think that the integrity of this committee and its reputation for being able to keep secret those things with which it is dealing is imperative if the committee is to function as an effective oversight committee. So I thoroughly agree with you. I know of no such leaks. I personally would represent to you, Mr. Chairman, which I believe needs no representation, that, as far as I'm concerned, there have been no leaks of any information, classified or otherwise, that has come into the possession of this committee.

I suppose the final thing I should say is that it's in the nature of the American congressional and political system that there should be a nomination and a testing. That is clearly so regardless of the power that's in the White House or the party that's in the White House. It's often misunderstood by foreign observers, our friends in the foreign press in particular. But it's well understood in the United States intuitively and instinctively by our citizenry, and certainly by our press, that while politics may not be an adversary proceeding, at least it is a system of testing. And Congress is the only place to test. There is no minority President. There is only a minority in the Congress.

And I think that the best interests of the minority, the best interests of the country, and indeed the best interests of the administration are best served by frank and open and candid appraisal of the situation as it occurs.

I personally am sorry, Mr. Sorensen, for this situation and for the distress I'm sure it has caused you. But I'm personally

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certain that you and others understand the necessity for the testing.

I commend you again. I reiterate it was a brave and generous thing you did today. And I think it will augur to your credit and your future reputation.

Thank you, Mr. Chairman.

SENATOR INOUE: Mr. Sorensen, on behalf of the committee, I think you for your presence here this morning, and I wish you well, sir.

The hearing is adjourned.

SORENSEN WITHDRAWS, BOWING TO RESISTANCE TO C.I.A. NOMINATION

CARTER IS REGRETFUL

Says His Administration Has
Lost 'Extremely Talented
and Dedicated Man'

By WENDELL RAWLS Jr.

Special to The New York Times

WASHINGTON, Jan. 17—Theodore C. Sorensen, bowing to growing opposition within the Senate Select Committee on Intelligence, told the committee today that he had asked President-elect Carter to withdraw his nomination as Director of Central Intelligence.

"It is now clear that a substantial portion of the United States Senate and the intelligence community is not yet ready to accept as Director of Central Intelligence an outsider who believes as I believe," Mr. Sorensen told a surprised committee. "It is equally clear that to continue fighting for this post, which would be my natural inclination, would only handicap the new administration if I am rejected, or handicap my effectiveness as Director if I am confirmed."

President-elect Carter, in a brief statement issued by his press secretary, Jody Powell, in Americus, Ga., accepted Mr. Sorensen's decision with an expression of regret, saying, "The administration and the intelligence community have lost the services of an extremely talented and dedicated man."

Carter Anger Hinted

Mr. Sorensen's withdrawal was the first major setback for the President-elect in his dealings with Congress. While Mr. Powell avoided any description of Mr. Carter's reaction beyond the prepared statement, insiders suggested that Mr. Carter was angry over the senators' opposition.

Mr. Powell said that Mr. Carter still preferred someone from outside the intelligence community for the job but that he did not expect to make another announcement on a new appointment of a Director until after his inauguration Thursday.

Opposition to Mr. Sorensen's appointment, which developed at the outset among a minority of the 15-member committee, began to grow late last week when questions were raised about an affidavit he gave four and a half years ago in behalf of Daniel Ellsberg and Anthony J. Russo Jr. in their trial in connection with the unauthorized disclosure of the Pentagon papers, dealing with United States involvement in Vietnam.

Tax Deduction Over Gift

In the affidavit, which was a matter of public record but was never admitted into evidence at the trial, Mr. Sorensen said that when he left the White House in February 1964, after the death of President Kennedy, he took with him 67 boxes of documents, letters and other material, including seven boxes that contained "classified" information.

He said he had used that material in writing a book on the Kennedy Administration, in which he served for more than three years as speech writer and special counsel to the President. Mr. Sorensen received \$200,000 for the book as an ad-

vance against royalties. In December 1968, Mr. Sorensen returned the materials to the Government as a gift to the John Fitzgerald Kennedy Library and took a tax deduction of \$231,000.

There was no suggestion that what Mr. Sorensen did was illegal or anything other than accepted practice at the time. The disclosure of the affidavit, however, generated critical questions and growing opposition to the Sorensen nomination with the committee.

In addition, several members of the committee were said to have expressed concern over what they called Mr. Sorensen's "pacifist" approach to military service; his role in aiding Senator Edward M. Kennedy, Democrat of Massachusetts, to overcome the Chappaquiddick incident in 1964; and his role in his car was

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killed; the suspicion that he knew more than he would acknowledge about Central Intelligence Agency assassination plots in the Kennedy years; his inexperience in foreign intelligence; and the representation by his New York law firm (Paul, Weiss, Rifkind, Wharton & Garrison) of multinational corporations and such countries as Zaire, Sierra Leone and Iran, where the C.I.A. is influential.

The Republican members of the committee, still smarting from the residue of Watergate and feeling that many of the intelligence abuses disclosed after Watergate had roots in former Democratic administrations, reportedly saw in Mr. Sorensen a Carter vulnerability that they could successfully exploit to the embarrassment of the new administration.

They quickly disseminated the affidavit through the committee and collected support from conservative Democrats on the committee and from Senator Robert C. Byrd, Democrat of West Virginia, the Senate majority leader.

In a 10-page statement read to the committee before his announcement of withdrawal, Mr. Sorensen addressed himself to what he called "scurrilous and unfounded personal attacks which have been anonymously circulated against me."

Charges 'Totally False'

He said that he had never compromised the national security of the country and that nobody had ever charged him with conveying classified information to others or mislaying classified information.

He labeled as "totally false" any charge that he had improperly taken classified documents from the White House or had improperly taken a tax deduction for donating them to the Kennedy library. "My handling of classified information was at all times in accordance with the then-existing laws, regulations and practices," he said.

He said that he had "never sought to avoid military service, hazardous or otherwise," but that he had requested military service in a noncombatant capacity and that his request for such a classification had been granted. He said that he had never "permitted my preference for personal nonviolence to inhibit in any way my advice to the President

on the military and other options available as a matter of national policy."

He also branded as "totally absurd" and "totally false" suggestions that his legal representation of multinational companies and foreign governments posed a potential conflict of interest and suggestions that he "must have been somehow involved" in Kennedy White House plots to assassinate foreign leaders.

After reading his defense, Mr. Sorensen

reached for a separate piece of paper and stunned the committee by reading his statement of withdrawal. He had informed Mr. Carter of his intention only minutes before he entered the Senate Caucus Room, although he had decided on this course of action sometime after midnight last night.

OFFICE OF LEGISLATIVE COUNSEL BRIEFING BOOK
FOR DIRECTOR OF CENTRAL INTELLIGENCE

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The Office of Legislative Counsel

Pursuant to Headquarters Regulation 1-3c (Tab A), the Office of Legislative Counsel functions as the DCI's focal point for all legislative matters affecting the CIA and the Intelligence Community. To carry out



approval to expand its staff (Tab B). With the exception of a handful of individual Members of Congress, the Agency has maintained good relations with our oversight committees (Tab C) and with individual Congressmen. In fulfilling its responsibility to monitor and amend as necessary legislation affecting the Agency, the Office of Legislative Counsel ensures, wherever possible, that Agency needs and interests are reflected in legislative action.

The Legislative Counsel reports directly to the DCI; when his responsibilities involve Agency matters, he reports through the Deputy DCI. When he becomes involved in matters affecting the Intelligence Community, he reports through the Deputy to the DCI for the Intelligence Community. On a day-to-day basis, the Office of Legislative Counsel works closely at all levels of responsibility with the Intelligence Community Staff, with office components in the CIA, and with legislative liaison offices of other Intelligence Community components. The Office receives its assignments directly from the DCI, the Deputy DCI and the Deputy to the DCI for the Intelligence Community. The Office of Legislative Counsel initiates actions pursuant to its prescribed functions (Tab A), and must respond to requests and demands initiated by Members of Congress, congressional staffers and legislative offices in other Executive agencies and departments.

Liaison with Congress is handled by the Legislative Counsel, the Deputy Legislative Counsel, and officers on the Liaison Staff. These activities include continual and frequent inquiries on substantive intelligence matters; queries regarding alleged Agency activities; setting up and conducting--in conjunction with the Center for Policy Support of the Directorate of Intelligence--substantive intelligence briefings; covert action briefings pursuant to the Hughes-Ryan Amendment (Section 662, Tab D) and per ad hoc requirements of oversight committees; coordination of travel abroad and in the U.S. to Agency facilities by Members of Congress and staff personnel; miscellaneous congressional inquiries; and coordination of appearances by the DCI before congressional committees (during the 94th Congress, the DCI appeared before Congress on 48 occasions).

In fulfillment of its reporting requirements under Section 662, the Agency informs our seven oversight committees (Tab C), including the Senate Select Committee on Intelligence, of a Presidential covert action finding as soon as practicable after the Agency is notified. During the 94th Congress, nine findings were transmitted to Congress pursuant to the requirements of Section 662. Following each briefing, the Legislative Counsel prepares follow-up reports for transmittal to the President from the DCI. Periodically, the DCI has appeared before our oversight committees to provide additional information on particular covert action programs outside the framework of Section 662 requirements. Such sessions are handled in executive session and, when a transcript is made, the Agency retains the documents for security reasons.

The Office of Legislative Counsel is responsible for coordinating and monitoring contacts between the Agency and specialized activities of Congress, in particular, the House Select Committee to Investigate and Study the Assassinations of John F. Kennedy and Martin Luther King, Jr. (see discussion below); the subcommittees of the Senate Select Committee on Intelligence; and ad hoc investigative teams of our oversight committees. The Office's responsibilities in the area of legislation are outlined below. This activity necessitates continual coordination between officers on the Legislation Staff and appropriate offices in the Agency, the Intelligence Community Staff, congressional staffers and officers in other Executive branch agencies and departments.

Action in the 94th Congress and
The Legislative Outlook for the 95th Congress

In carrying out its responsibility to monitor and act on legislation impacting on or otherwise affecting the CIA, the Office of Legislative Counsel, during the 94th Congress, devoted considerable effort to the following legislative matters, among many others:

(a) Intelligence oversight (culminating, in the Senate, with passage of S. Res. 400);

(b) Open budget bills (including direct efforts to open the CIA or National Foreign Intelligence Program budget, as well as numerous bills that might have done so indirectly);

(c) Limitations on covert action (amendments to other legislation and direct efforts to amend the CIA or National Security Acts);

(d) Limitations on other intelligence activities (such as relations with clergy);

(e) Electronic surveillance (the Administration-backed bill did not reach the floor of either House);

(f) Protection of information (financial disclosure, GAO audit, "sunshine" legislation, sources and methods legislation, etc.); and

(g) Reporting of "agreements" to Congress (amendments to the Case Act of 1972 and other bills that would require liaison and other sensitive intelligence arrangements to be reported to congressional committees).

Most of these same matters will come up in the 95th Congress and the Office of Legislative Counsel will continue to monitor them and ensure the interests of the Agency and, where indicated, the Intelligence Community, are considered and reflected therein.

The President included, in his legislative proposals for 1976, a bill applying criminal penalties to persons who disclose intelligence sources and methods without authorization (Tab E). In addition, the President called for legislation on electronic surveillance, and other limited restrictions on intelligence activities. For 1977 we have proposed that the President again include a proposal for sources and methods legislation, as well as legislation providing for two statutory Deputy Directors of Central Intelligence.

The Office of Legislative Counsel and the DCI, as appropriate, should be prepared to devote particular attention to the following issues in the 95th Congress:

- (a) Creation of an intelligence oversight committee in the House and/or a joint intelligence committee having exclusive jurisdiction;
- (b) Open budget;
- (c) Electronic surveillance;
- (d) Intelligence charters revision;
- (e) Restrictions on and clarification of certain intelligence activities" (in his message to the Congress on 18 February 1976, Tab E, the President stated his support for legislation to prohibit assassinations of foreign officials in peacetime and for legislation to expand judicial supervision of mail openings for foreign intelligence gathering purposes);
- (f) Protection of intelligence sources and methods;
- (g) Repeal of covert action reporting (Section 662, Tab D), probably in conjunction with the formation of a House intelligence committee;
- (h) Firearms legislation, to authorize Agency personnel to carry weapons to protect documents, other sources and methods information, installations and personnel;
- (i) Zero-base budget review procedures, as supported strongly by Senator Muskie (D., Maine) and probably by the new President; and
- (j) Reorganization of the Intelligence Community.

Relations with the Senate Select Committee on Intelligence

The Senate Select Committee on Intelligence has exclusive legislative jurisdiction over the CIA and sequential jurisdiction (with the Appropriations, Judiciary, Armed Services and Foreign Relations Committees, and with other appropriate committees as the need arises) over other elements of the Intelligence Community. The major responsibilities of the Committee, and those for which the Agency and Intelligence Community Staff have had most contact with the Committee, include general oversight, legislation, and [for the first time since enactment of the CIA Act in 1949] authorizations.

The Committee's mandate from S. Res. 400 (Tab I) includes a requirement that the Committee conduct a study and report to the full Senate by July 1977 on matters including the quality of intelligence, revision of the intelligence charters and budget secrecy. Committee staffers have been researching these matters, with the Office of Legislative Counsel as the Agency's focal point and drawing heavily on the expertise of the Directorates of Intelligence and Operations and the Office of the Comptroller. Senators on the Committee have been in frequent contact with the Office of Legislative Counsel, and on occasion with the DCI, to discuss oversight, revision of charters, budgetary matters, covert action, and substantive intelligence matters. (Tab H provides a list of the Select Committee Subcommittees and the membership.)

The Committee has adopted rules of procedure (Tab G) that establish rigorous guidelines for control and protection of classified information. In addition, this Office, in conjunction with other components of the Agency and the Intelligence Community Staff, has developed detailed guidelines to govern all contact between the Agency and the Intelligence Community Staff and all congressional committees, including the Select Committee. Arrangements also have been worked out to have Committee staffers sign secrecy oaths for compartmented information clearances.

The Select Committee existed effectively only for the last six months of the 94th Congress, and therefore did not become heavily involved in legislative matters affecting the CIA. The Committee did consider actively the electronic surveillance bill which, despite strong initial Administration support, did not go to the Senate floor for action. Also, the Committee assisted us in arranging for passage of the CIA Retirement and Disability Act amendments late in the legislative session, and in ironing out certain House-sponsored problems in the Defense Appropriations Bill.

Several members and staffers of the Select Committee have participated in numerous programs to educate them to the organization, needs and activities of the CIA and the Intelligence Community. These activities have included Headquarters briefings, trips to field facilities, and discussions with our Stations abroad. This educative process is crucial to our maintaining a balanced and effective relationship with not only the Select Committee but with our other oversight committees as well.

The House Select Committee to Investigate and Study the
Assassinations of John F. Kennedy and Martin Luther King, Jr.

This Select Committee, established pursuant to H. Res. 1540 in September 1976, is running into problems on the House floor concerning its charter, the amount of funds to be allocated, and the investigative techniques to be used. Moreover, controversy is beginning to develop over Richard Sprague, the Committee's Chief Counsel, who was prominent in the prosecution of the Tony Boyle/Yablonski case. However, there is little doubt that an investigation at least on John F. Kennedy's and Martin Luther King's assassinations will be funded by the House this session. This will involve the Agency to the extent that we have relevant information holdings.

The Office of Legislative Counsel has functioned as the focal point for our limited contact to date with the Select Committee Chief Counsel and his staff. The Committee staff had started to review Agency documentation and interview individuals regarding the Kennedy assassination, particularly the Oswald-Cuba angle and information earlier provided the Warren Commission. A number of problems concerning security understandings and procedures remain to be worked out with the Committee before a full working relationship can be developed. The broad guidelines under which the Select Committee will be operating remain to be developed by the new House of Representatives.

The members of the Committee as assigned during the 94th Congress are:

Thomas N. Downing (D., Va.), Chairman*
Henry B. Gonzalez (D., Texas)
Richardson Preyer (D., N. C.)
Louis Stokes (D., Ohio)
Walter E. Fauntroy (D., D. C.)
Yvonne B. Burke (D., Calif.)
Christopher J. Dodd (D., Conn.)
Harold E. Ford (D., Tenn.)
Samuel L. Devine (R., Ohio)
Burt L. Talcott (R., Calif.)*
Stewart B. McKinney (R., Conn.)
Charles Thone (R., Neb.)

*Retired; Representative Gonzalez will likely take over as Chairman.

Headquarters Regulation, HR 1-3c

c. OFFICE OF LEGISLATIVE COUNSEL

(1) MISSION. The Legislative Counsel is responsible for all congressional matters arising in connection with the official business of the Agency.

(2) FUNCTIONS. The Legislative Counsel will:

(a) Keep the Director informed on all congressional matters involving or affecting the Agency.

(b) Study and recommend Agency action in connection with proposed legislation.

(c) Control all Agency liaison with the Congress of the United States, its individual members and committees, and their staffs, and with legislative liaison staffs of other executive departments and agencies.

(d) Conduct liaison with the Office of Management and Budget with respect to proposed legislation, enrolled bills, reports on proposed legislation, and proposed Executive orders, keeping the Comptroller appropriately advised.

(e) Supervise the handling of congressional correspondence and inquiries.

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Committees Briefed Under Section 662
of the Foreign Assistance Act

Senate Select Committee on Intelligence

Daniel K. Inouye (D., Hawaii), Chairman

Birch Bayh (D., Ind.)	Clifford Case (R., N. J.)
Adlai E. Stevenson (D., Ill.)	Strom Thurmond (R., S. C.)
William D. Hathaway (D., Maine)	Howard Baker (R., Tenn.)
Walter Huddleston (D., Ky.)	Mark Hatfield (R., Ore.)
Joseph R. Biden (D., Del.)	Barry Goldwater (R., Ariz.)
Gary Hart (D., Colo.)	Robert Stafford (R., Vt.)
Robert Morgan (D., N. C.)	Jake Garn (R., Utah)

*No changes in membership as result of the November 1976 election.

**Top Staffers are William Miller, Mike Madigan, and
Howard Liebengood.

Senate Appropriations Committee
Intelligence Operations Subcommittee

John L. McClellan (D., Ark.), Chairman

John C. Stennis (D., Miss.)	Milton R. Young (R., N. Dak.)
John O. Pastore (D., R. I.)*	Roman L. Hruska (R., Neb.)*

*Retired; Senators Inouye and Case, of the Select Committee on
Intelligence, may replace Senators Pastore and Hruska.

**Top Staffers are James Fellenbaum, Guy McConnell, and
Joel (Pete) Bonner.

Senate Armed Services Committee
CIA Subcommittee

John C. Stennis (D., Miss.), Chairman

Stuart Symington (D., Mo.)*	Barry Goldwater (R., Ariz.)
Howard W. Cannon (D., Nev.)	Strom Thurmond (R., S. C.)
Thomas McIntyre (D., N. H.)	Dewey Bartlett (R., Okla.)

*Retired

**Top Staffers are Frank Sullivan and Clark McFadden.

Senate Foreign Relations Committee

John Sparkman (D., Ala.)

Clifford P. Case (R., N. J.)

*No changes as result of November 1976 election.

**Top Staffer is Pat Holt.

House International Relations Committee
Subcommittee on Oversight

Thomas E. Morgan (D., Pa.)*. Chairman

Clement J. Zablocki (D., Wis.)

William S. Broomfield (R., Mich.)

Wayne L. Hays (D., Ohio)*

Edward J. Derwinski (R., Ill.)

Leo J. Ryan (D., Calif.)

Helen S. Meyner (D., N. J.)

*Retired; Rep. Zablocki will take over as Chairman.

**Top Staffers are Jack Brady and Jack Sullivan.

House Armed Services Committee
Special Subcommittee on Intelligence

Lucien N. Nedzi (D., Mich.), Chairman

Melvin Price (D., Ill.)

Bob Wilson (R., Calif.)

F. Edward Hebert (D., La.)*

William L. Dickenson (R., Ala.)

Charles E. Bennett (D., Fla.)

Samuel S. Stratton (D., N. Y.)

*Retired; probable replacement is Richard Ichord (D., Mo.)

**Top Staffers are Frank Slatinshek (retiring; replacement will be John Ford) and William Hogan.

House Appropriations Committee
Defense Subcommittee

George H. Mahon (D., Texas), Chairman

Robert L. F. Sikes (D., Fla.)	Jack Edwards (R., Ala.)
Daniel J. Flood (D., Pa.)	J. Kenneth Robinson (R., Va.)
Joseph P. Addabbo (D., N. Y.)	Jack F. Kemp (R., N. Y.)
John J. McFall (D., Calif.)	Elford Cederberg (R., Mich.)
John J. Flynt (D., Ga.)	(ex-officio member)
Robert N. Giaimo (D., Conn.)	
Bill Chappell (D., Fla.)	
Bill D. Burlison (D., Mo.)	

*No changes as result of November 1976 election.

**Top Staffers are Ralph Preston and Charles Snodgrass.

Public Law 93-559
93rd Congress, S. 3394
December 30, 1974

"An Act to amend the Foreign Assistance Act of 1961, and for other purposes."

INTELLIGENCE ACTIVITIES AND EXCHANGES
OF MATERIALS

SEC. 32. The Foreign Assistance Act of 1961 is amended by adding at the end of part III the following new sections:

"SEC. 662. Limitation on Intelligence Activities. (a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives.

" (b) The provisions of subsection (a) of this section shall not apply during military operations initiated by the United States under a declaration of war approved by the Congress or an exercise of powers by the President under the War Powers Resolution."

94th Congress, 2d Session - - - - - House Document No. 94-374

ORGANIZATION AND CONTROL OF THE
FOREIGN INTELLIGENCE COMMUNITY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

PROPOSALS FOR IMPROVING THE ORGANIZATION AND
CONTROL OF THE FOREIGN INTELLIGENCE COMMUNITY,
TOGETHER WITH A REPORT ON ACTIONS ALREADY TAKEN
BY EXECUTIVE ORDER



FEBRUARY 18, 1976.—Message and accompanying papers referred to the
Committee of the Whole House on the State of the Union and ordered
to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1976

57-011

To the Congress of the United States:

By virtue of the authority vested in me by Article II, Sections 2 and 3 of the Constitution, and other provisions of law, I have today issued an Executive Order pertaining to the organization and control of the United States foreign intelligence community. This order establishes clear lines of accountability for the Nation's foreign intelligence agencies. It sets forth strict guidelines to control the activities of these agencies and specifies as well those activities in which they shall not engage.

In carrying out my Constitutional responsibilities to manage and conduct foreign policy and provide for the Nation's defense, I believe it essential to have the best possible intelligence about the capabilities, intentions and activities of governments and other entities and individuals abroad. To this end, the foreign intelligence agencies of the United States play a vital role in collecting and analyzing information related to the national defense and foreign policy.

It is equally as important that the methods these agencies employ to collect such information for the legitimate needs of the government conform to the standards set out in the Constitution to preserve and respect the privacy and civil liberties of American citizens.

The Executive Order I have issued today will insure a proper balancing of these interests. It establishes government-wide direction for the foreign intelligence agencies and places responsibility and accountability on individuals, not institutions.

I believe it will eliminate abuses and questionable activities on the part of the foreign intelligence agencies while at the same time permitting them to get on with their vital work of gathering and assessing information. It is also my hope that these steps will help to restore public confidence in these agencies and encourage our citizens to appreciate the valuable contribution they make to our national security.

Beyond the steps I have taken in the Executive Order, I also believe there is a clear need for some specific legislative actions. I am today submitting to the Congress of the United States proposals which will go far toward enhancing the protection of true intelligence secrets as well as regularizing procedures for intelligence collection in the United States.

My first proposal deals with the protection of intelligence sources and methods. The Director of Central Intelligence is charged, under the National Security Act of 1947, as amended, with protecting intelligence sources and methods. The Act, however, gives the Director no authorities commensurate with this responsibility.

Therefore, I am proposing legislation to impose criminal and civil sanctions on those who are authorized access to intelligence secrets and who willfully and wrongfully reveal this information. This legislation is not an "Official Secrets Act", since it would affect only those who improperly disclose secrets, not those to whom secrets are disclosed. Moreover, this legislation could not be used to cover up abuses and

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improprieties. It would in no way prevent people from reporting questionable activities to appropriate authorities in the Executive and Legislative Branches of the government.

It is essential, however, that the irresponsible and dangerous exposure of our Nation's intelligence secrets be stopped. The American people have long accepted the principles of confidentiality and secrecy in many dealings—such as with doctors, lawyers and the clergy. It makes absolutely no sense to deny this same protection to our intelligence secrets. Openness is a hallmark of our democratic society, but the American people have never believed that it was necessary to reveal the secret war plans of the Department of Defense, and I do not think they wish to have true intelligence secrets revealed either.

I urge the adoption of this legislation with all possible speed.

Second, I support proposals that would clarify and set statutory limits, where necessary, on the activities of the foreign intelligence agencies. In particular, I will support legislation making it a crime to assassinate or attempt or conspire to assassinate a foreign official in peacetime. Since it defines a crime, legislation is necessary.

Third, I will meet with the appropriate leaders of Congress to try to develop sound legislation to deal with a critical problem involving personal privacy—electronic surveillance. Working with Congressional leaders and the Justice Department and other Executive agencies, we will seek to develop a procedure for undertaking electronic surveillance for foreign intelligence purposes. It should create a special procedure for seeking a judicial warrant authorizing the use of electronic surveillance in the United States for foreign intelligence purposes.

I will also seek Congressional support for sound legislation to expand judicial supervision of mail openings. The law now permits the opening of United States mail, under proper judicial safeguards, in the conduct of criminal investigations. We need authority to open mail under the limitations and safeguards that now apply in order to obtain vitally needed foreign intelligence information.

This would require a showing that there is probable cause to believe that the sender or recipient is an agent of a foreign power who is engaged in spying, sabotage or terrorism. As is now the case in criminal investigations, those seeking authority to examine mail for foreign intelligence purposes will have to convince a federal judge of the necessity to do so and accept the limitations upon their authorization to examine the mail provided in the order of the court.

Fourth, I would like to share my views regarding appropriate Congressional oversight of the foreign intelligence agencies. It is clearly the business of the Congress to organize itself to deal with these matters. Certain principles, however, should be recognized by both the Executive and Legislative Branches if this oversight is to be effective. I believe good Congressional oversight is essential so that the Congress and the American people whom you represent can be assured that the foreign intelligence agencies are adhering to the law in all of their activities.

Congress should seek to centralize the responsibility for oversight of the foreign intelligence community. The more committees and sub-

committees dealing of disclosure. I see Intelligence Oversight in one committee to keep the Congress

It is essential that rules to insure that disclosed. There must be secrets and effective

Any foreign intelligence Branch to the Oversight should not be unilaterally the integrity of the that no individual Congress can overrule a classified information committee or one House separation of power other House of Congresses.

Finally, successful foreign intelligence agencies and Executive rights and prerogatives

In this context, a Committee "fully" in a matter than for activities to a large number the Foreign Assistance committee briefings, mission on the Organized Foreign Policy, and Committee.

Both the Congress since to this Nation or that we take the step not only has the best also the most unique consistent with the Constitution

THE WHITE HOUSE

A BILL To amend the National Security

Be it enacted by the United States of America, that the National Security is further amended by

(g) In the interests of the United States, the provisions of section 102(d)

committees dealing with highly sensitive secrets, the greater the risks of disclosure. I recommend that Congress establish a Joint Foreign Intelligence Oversight Committee. Consolidating Congressional oversight in one committee will facilitate the efforts of the Administration to keep the Congress fully informed of foreign intelligence activities.

It is essential that both the House and the Senate establish firm rules to insure that foreign intelligence secrets will not be improperly disclosed. There must be established a clear process to safeguard these secrets and effective measures to deal with unauthorized disclosures.

Any foreign intelligence information transmitted by the Executive Branch to the Oversight Committee, under an injunction of secrecy, should not be unilaterally disclosed without my agreement. Respect for the integrity of the Constitution requires adherence to the principle that no individual member, nor committee, nor single House of Congress can overrule an act of the Executive. Unilateral publication of classified information over the objection of the President, by one committee or one House of Congress, not only violates the doctrine of separation of powers, but also effectively overrules the actions of the other House of Congress, and perhaps even the majority of both Houses.

Finally, successful and effective Congressional oversight of the foreign intelligence agencies depends on mutual trust between the Congress and Executive. Each branch must recognize and respect the rights and prerogatives of the other if anything is to be achieved.

In this context, a Congressional requirement to keep the Oversight Committee "fully" informed is more desirable and workable as a practical matter than formal requirements for notification of specific activities to a large number of committees. Specifically, Section 662 of the Foreign Assistance Act, which has resulted in over six separate committee briefings, should be modified as recommended by the Commission on the Organization of the Government for the Conduct of Foreign Policy, and reporting should be limited to the new Oversight Committee.

Both the Congress and the Executive Branch recognize the importance to this Nation of a strong intelligence service. I believe it urgent that we take the steps I have outlined above to insure that America not only has the best foreign intelligence service in the world, but also the most unique—one which operates in a manner fully consistent with the Constitutional rights of our citizens.

GERALD R. FORD.

THE WHITE HOUSE, February 18, 1976.

A BILL To amend the National Security Act of 1947, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 102 of the National Security Act of 1947, as amended, (50 U.S.C.A. 403) is further amended by adding the following new subsection (g):

(g) In the interests of the security of the foreign intelligence activities of the United States, and in order further to implement the proviso of section 102(d)(3) of the Act that the Director of Central

Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure—

(1) Whoever, being or having been in duly authorized possession or control of information relating to intelligence sources and methods, or whoever, being or having been an officer or employee of the United States, or member of the Armed Services of the United States, or a contractor of the United States Government, or an employee of a contractor of the United States Government, and in the course of such relationship becomes possessed of such information imparts or communicates it by any means to a person not authorized to receive it or to the general public shall be fined not more than \$5,000 or imprisoned not more than five years, or both;

(2) For the purposes of this subsection, the term "information relating to intelligence sources and methods" means any information, regardless of its origin, that is classified pursuant to the provisions of a statute or Executive order, or a regulation or a rule issued pursuant thereto as information requiring a specific degree of protection against unauthorized disclosure for reasons of national security and which, in the interest of the foreign intelligence activities of the United States, has been specifically designated by a department or agency of the United States Government which is authorized by law or by the President to engage in foreign intelligence activities for the United States as information concerning—

(A) methods of collecting foreign intelligence;

(B) sources of foreign intelligence, whether human, technical, or other; or

(C) methods and techniques of analysis and evaluation of foreign intelligence.

(3) A person who is not authorized to receive information relating to intelligence sources and methods is not subject to prosecution for conspiracy to commit an offense under this subsection, or as an accomplice, within the meaning of sections 2 and 3 of Title 18, United States Code, in the commission of an offense under this subsection, unless he became possessed of such information in the course of a relationship with the United States Government as described in paragraph (1): *Provided, however,* That the bar created by this paragraph does not preclude the indictment or conviction for conspiracy of any person who is subject to prosecution under paragraph (1) of this subsection.

(4) It is a bar to prosecution under this subsection that:

(A) at the time of the offense there did not exist a review procedure within the Government agency described in paragraph (2) of this subsection through which the defendant could obtain review of the continuing necessity for the classification and designation;

(B) prior to the return of the indictment or the filing of the information, the Attorney General and the Director of Central Intelligence did not jointly certify to the court that the information was lawfully classified and lawfully designated pursuant to paragraph (2) at the time of the offense;

(C) the information by the United States

(D) the information fully designated pursuant to the offense.

(5) It is a defense to the information was committed by a subcommittee, committee, or individual, not subject to lawful demand.

(6) Any hearing by the court to determine whether the information was lawfully classified and lawfully designated,

(A) at the close of the hearing, the court shall enter into the record its determinations;

(B) any determination shall be a question of law.

(7) Whenever in the course of the investigation of intelligence any person is arrested, or any person is arrested, which will constitute a violation of the Espionage Laws, General, on behalf of the United States, the appropriate court for the offense, and upon a showing of probable cause, any such acts or practices, restraining order, or other order, and application for an order.

(A) the court shall have the purpose of making the classification and it has determined attending evidence the matter has been determined.

(B) the court shall have the purpose of making the classification and it has determined attending evidence the matter has been determined.

SECTIONAL

The draft bill by adding to the Espionage Act of 1917 further a duty upon the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. It draws upon existing concerning communication relating to atomic energy. *Paragraph (1) of the bill* limited class of individuals who are prohibited from the disclosure of information defined in paragraph (2) of the bill. *Paragraph (2) of the bill* information relating to in-

(C) the information has been placed in the public domain by the United States Government; or

(D) the information was not lawfully classified and lawfully designated pursuant to paragraph (2) at the time of the offense.

(5) It is a defense to a prosecution under this subsection that the information was communicated only to a regularly constituted subcommittee, committee or joint committee of Congress, pursuant to lawful demand.

(6) Any hearing by the court for the purpose of making a determination whether the information was lawfully classified and lawfully designated, shall be *in camera*;

(A) at the close of any *in camera* review, the court shall enter into the record an order pursuant to its findings and determinations;

(B) any determination by the court under this paragraph shall be a question of law.

(7) Whenever in the judgment of the Director of Central Intelligence any person is about to engage in any acts or practices which will constitute a violation of this subsection, the Attorney General, on behalf of the United States, may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing that such person is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted. In the case of and application for an order under this paragraph:

(A) the court shall not hold an *in camera* hearing for the purpose of making a determination as to the lawfulness of the classification and designation of the information unless it has determined after giving due consideration to all attending evidence that such evidence does not indicate that the matter has been lawfully classified and designated;

(B) the court shall not invalidate the classification or designation unless it finds that the judgment of the department or agency, pursuant to paragraph (2), as to the lawfulness of the classification and designation was arbitrary, capricious and without a reasonable basis in fact.

SECTIONAL ANALYSIS AND EXPLANATION

The draft bill by adding a new subsection (g) to the National Security Act of 1947 further implements a proviso of that Act imposing a duty upon the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. The new subsection draws upon existing concepts of law found within 18 U.S.C. 798 (relating to communication intelligence) and 42 U.S.C. 2201 *et seq.* (relating to atomic energy Restricted Data).

Paragraph (1) of the new subsection identifies the special and limited class of individuals having privity of access to the sensitive information defined in paragraph (2) below and proscribes their culpable communication of such information to an unauthorized recipient.

Paragraph (2) of the new subsection defines the special category of information relating to intelligence sources and methods which is sub-

ject to the new provisions. It also recognizes the authority of the Director and heads of other agencies expressly authorized by law or by the President to engage in intelligence activities for the United States, to provide for the appropriate designation of such information.

Paragraph (3) of the new subsection assures that only the special and limited class of individuals identified under paragraph (1) above will be subject to prosecution as a result of the violation of the new subsection. This is in keeping with the intent that the new provision penalizes as unlawful the conduct of those whose access to the designated information is dependent upon understandings arising out of a relationship involving trust and confidence. Collateral prosecution related to the violation of any other provision of law, however, is not vitiated by this paragraph.

Paragraph (4) of the new subsection provides that no prosecution may be instituted unless the Attorney General and the Director of Central Intelligence first jointly certify to the court that the information was lawfully classified and lawfully designated for limited dissemination; the information was not placed in the public domain by the Government; an agency review procedure existed whereby the defendant could have secured a review of the information in question for a determination on public releasability; and the information was lawfully classified and lawfully designated pursuant to paragraph (2) at the time of the offense.

Paragraph (5) of the new subsection provides a defense to prosecution if the information was only provided to a regularly constituted committee, joint committee or joint committee of Congress, pursuant to lawful demand.

Paragraph (6) of the new subsection provides that any hearing by the court to determine whether the information was lawfully classified and lawfully designated shall be *in camera* and such determination shall be a question of law.

Paragraph (7) of the new subsection permits the Attorney General to petition a court to enjoin injunction any act which the Director believes will violate any provision of the new subsection. This authority is intended to provide prompt judicial action to avoid damage to the U.S. foreign intelligence effort in circumstances where punitive criminal action alone, being necessarily *ex post facto*, may be inadequate in achieving the underlying objective of the legislation which is to protect intelligence sources, methods and techniques from unauthorized disclosure. This paragraph also provides that in any hearing for such an order the court shall not hold an *in camera* hearing to determine the lawfulness of the classification and designation of the information unless it has first considered all attending evidence and determined that the evidence does not indicate that the matter has been lawfully classified and lawfully designated. The paragraph further provides that the court may invalidate a classification or designation if it finds the judgment of the department or agency head was arbitrary, capricious and without a reasonable basis in fact.

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THURSDAY, FEBRUARY 19, 1976



PART III:

THE PRESIDENT

UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES

Executive Order 11905

federal register

Today, current logging practices have improved tremendously. Great strides are being made to improve for the fisheries, wildlife, water, scenic values, such as landscape logging, community development and social well-being of people, besides keeping up a healthy economy in the area.

In conclusion, our group desires that your committee consider the foregoing information which is submitted to the best of our knowledge and belief. We understand that conflicting pressures from self interest groups, in most cases the minority, must be reconciled. Please evaluate and give every consideration to balance the economy with ecology and conservation, in proportion to the needs of the people. We believe that all interest can be compatible and your committee can help solve the problem so that we can reduce the anxiety of losing our jobs and have complete harmony and faith in this nation.

Gentlemen, thank you for your time and we request that you make this testimony a part of the Congressional Records.

R. URATA, President.

TRIBUTE TO SENATOR STUART SYMINGTON

Mr. FONG, Mr. President, today I salute one of our best-known and most distinguished colleagues, STUART SYMINGTON, the senior Senator from Missouri, who retires next January after 24 years as a Member of this august body.

Few members have come to the U.S. Senate with a broader range of experience in both business and Government. Prior to his election in 1952, STUART SYMINGTON already had attained a brilliant career in business, where he gained fame as one who took over ailing firms and turned them around to become successful and flourishing enterprises. Just prior to entering Government service, in 1945, SYMINGTON was president of the Emerson Electric Manufacturing Co. of St. Louis.

He first entered Government service as chairman of the Surplus Property Board, and because of his ability and insight, was chosen to be the Nation's first Secretary of the Air Force when it was established as a separate service under the military-Unification Act, which he, incidentally, helped get through Congress. He subsequently served as chairman of the National Securities Resources Board, then later as administrator of the Reconstruction Finance Corp.

The high regard with which he was held all during his years with the executive branch of the Government is reflected in the fact that he was approved by the Senate six times for high Federal office without a single dissenting vote from either the Democrats or Republicans.

In addition to the wide and varied experience STUART SYMINGTON brought to the U.S. Senate 24 years ago, the Senator soon demonstrated his capacity to acquire fresh knowledge and growth. Here in the Senate, he has exercised leadership through his service on the Committees on Armed Services, Foreign Relations, and Aeronautical and Space Sciences. His position on some major issues facing the Nation has changed during his years as a Senator, but as he has put it in his own words, "It isn't that you switch; it's that you grow."

I have known STUART SYMINGTON since my arrival in Washington in 1959, as one of the two statehood Senators from Hawaii. As we both retire from the U.S. Senate at the end of the 94th Congress, I take this opportunity to state that it has been a privilege indeed to have served with such an honorable and worthy man.

On behalf of my wife and myself, I wish STUART SYMINGTON abundant good health and happiness in his retirement.

Aloha.

RULES OF PROCEDURE, SELECT COMMITTEE ON INTELLIGENCE

Mr. INOUE, Mr. President, in accordance with the provisions of the Legislative Reorganization Act of 1970, I now submit for publication in the Record the rules of procedure of the Select Committee on Intelligence. These rules were adopted by the members of the select committee on June 23, 1976, and were amended on July 28, 1976. I ask unanimous consent that they be printed in the Record.

There being no objection, the rules were ordered to be printed in the Record, as follows:

RULES OF PROCEDURE

RULE 1. CONVENING OF MEETINGS

1.1 The regular meeting day of the Select Committee on Intelligence for the transaction of Committee business shall be on Wednesday of each week, unless otherwise directed by the Chairman.

1.2 The Chairman shall have authority, upon proper notice, to call such additional meetings of the Committee as he may deem necessary and may delegate such authority to any other member of the Committee.

1.3 A special meeting of the Committee may be called at any time upon the written request of five or more members of the Committee filed with the Clerk of the Committee.

1.4 In the case of any meeting of the Committee, other than a regularly scheduled meeting, the Clerk of the Committee shall notify every member of the Committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C., and at least 48 hours in the case of any meeting held outside Washington, D.C.

1.5 If five members of the Committee have made a request in writing to the Chairman to call a meeting of the Committee, and the Chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, these members may call a meeting by filing a written notice with the Clerk of the Committee who shall promptly notify each member of the Committee in writing of the date and time of the meeting.

RULE 2. MEETING PROCEDURES

2.1 Meetings of the Committee shall be open to the public except as provided in S. Res. 9, 94th Congress, 1st Session.

2.2 It shall be the duty of the Staff Director to keep or cause to be kept a record of all Committee proceedings.

2.3 The Chairman of the Committee, or if the Chairman is not present the Vice Chairman, shall preside over all meetings of the Committee. In the absence of the Chairman and the Vice Chairman at any meeting the ranking majority member, or if no majority member is present the ranking minority member present shall preside.

2.4 Except as otherwise provided in these rules, the Committee shall be conducted

by majority vote of the members present and voting. A quorum for the transaction of Committee business, including the conduct of executive sessions, shall consist of eight Committee members, except that for the purpose of hearing witnesses, taking sworn testimony, and receiving evidence under oath, a quorum may consist of one Senator.

2.5 A vote by any member of the Committee with respect to any measure or matter being considered by the Committee may be cast by proxy if the proxy authorization (1) is in writing; (2) designates the member of the Committee who is to exercise the proxy; and (3) is limited to a specific measure or matter and any amendments pertaining thereto. Proxies shall not be considered for the establishment of a quorum.

2.6 Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the Committee.

RULE 3. SUBCOMMITTEES

Creation of subcommittees shall be by majority vote of the Committee. Subcommittees shall deal with such legislation and oversight of programs and policies as the Committee may direct. The subcommittees shall be governed by the Rules of the Committee and by such other rules they may adopt which are consistent with the Rules of the Committee.

RULE 4. REPORTING OF MEASURES OR RECOMMENDATIONS

4.1 No measures or recommendations shall be reported, favorably or unfavorably, from the Committee unless a majority of the Committee is actually present and a majority concur.

4.2 In any case in which the Committee is unable to reach a unanimous decision, separate views or reports may be presented by any member or members of the Committee.

4.3 A member of the Committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than three working days in which to file such views, in writing with the Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report.

RULE 5. NOMINATIONS

5.1 Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least 14 days before being voted on by the Committee.

5.2 Each member of the Committee shall be promptly furnished a copy of all nominations referred to the Committee.

5.3 Nominees who are invited to appear before the Committee shall be heard in public session, except as provided in Rule 2.1.

5.4 No confirmation hearing shall be held sooner than seven days after receipt of the background and financial disclosure statement unless the time limit is waived by a majority vote of the Committee.

5.5 The Committee vote on the confirmation shall not be sooner than 48 hours after the Committee has received transcripts of the confirmation hearing unless the time limit is waived by unanimous consent of the Committee.

5.6 No nomination shall be reported to the Senate unless the nominee has filed a background and financial disclosure statement with the Committee.

RULE 6. INVESTIGATIONS

No investigation shall be initiated by the Committee unless at least five members of the Committee have specifically requested

September 15, 1976

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the Chairman or the Vice Chairman to authorize such an investigation. Authorized investigations may be conducted by members of the Committee and/or by designated Committee staff members.

RULE 7. SUBPENAS

Subpenas authorized by the Committee for the attendance of witnesses or the production of memoranda, documents, records or any other material may be issued by the Chairman, the Vice Chairman, or any member of the Committee designated by the Chairman, and may be served by any person designated by the Chairman, Vice Chairman or member issuing the subpenas. Each subpena shall have attached thereto a copy of S. Res. 400, 94th Congress, 2nd Session.

RULE 8. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

8.1 *Notice.*—Witnesses required to appear before the Committee shall be given reasonable notice and all witnesses shall be furnished a copy of these Rules.

8.2 *Oath or Affirmation.*—Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the Committee.

8.3 *Interrogation.*—Committee interrogation shall be conducted by members of the Committee and such Committee staff as are authorized by the Chairman, Vice Chairman, or the presiding member.

8.4 *Counsel for the Witness.*—(a) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the Committee of such fact. If the witness informs the Committee of this fact at least 24 hours prior to his appearance before the Committee the Committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(b) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject such counsel to disciplinary action which may include warning, censure, removal, or a recommendation of contempt proceedings.

(c) There shall be no direct or cross-examination by counsel. However, counsel may submit in writing any question he wishes propounded to his client or to any other witness and may, at the conclusion of his client's testimony, suggest the presentation of other evidence or the calling of other witnesses. The Committee may use such questions and dispose of such suggestions as it deems appropriate.

8.5 *Statements by Witnesses.*—A witness may make a statement, which shall be brief and relevant, at the beginning and conclusion of his testimony. Such statements shall not exceed a reasonable period of time as determined by the Chairman, or other presiding members. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the Clerk of the Committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of his appearance before the Committee.

8.6 *Objections and Rulings.*—Any objection raised by a witness or counsel shall be ruled upon by the Chairman or other presiding member, and such ruling shall be the ruling of the Committee unless a majority of the Committee present overrules the ruling of the chair.

8.7 *Inspection and Correction.*—All witnesses testifying before the Committee shall be given a reasonable opportunity to inspect, in the office of the Committee, the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel.

Any corrections the witness desires to make in the transcript shall be submitted in writing to the Committee within five days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the Chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made available to that witness at his expense.

8.8 *Requests to Testify.*—The Committee will consider requests to testify on any matter or measure pending before the Committee. A person who believes that testimony or other evidence presented at a public hearing, or any comment made by a Committee member or a member of the Committee staff may tend to affect adversely his reputation, may request to appear personally before the Committee to testify on his own behalf, or may file a sworn statement of facts relevant to the testimony, evidence, or comment, or may submit to the Chairman proposed questions in writing for the cross-examination of other witnesses. The Committee shall take such action as it deems appropriate.

8.9 *Contempt Procedures.*—No recommendation that a person be cited for contempt of Congress shall be forwarded to the Senate unless and until the Committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he should not be held in contempt, and agreed, by majority vote of the Committee to forward such recommendation to the Senate.

8.10 *Release of Name of Witness.*—Unless authorized by the Chairman, the name of any witness scheduled to be heard by the Committee shall not be released prior to, or after, his appearance before the Committee.

RULE 9. PROCEDURES FOR HANDLING CLASSIFIED OR SENSITIVE MATERIAL

9.1 Committee staff offices shall operate under strict security precautions. At least one security guard shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves. At least one additional security guard shall be posted for surveillance of the secure area where sensitive documents are kept after the last member of the Committee or the Committee staff has left for the day.

9.2 Sensitive or classified documents and material shall be segregated in a secure storage area. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the Committee offices of such documents and other materials is prohibited except as is necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, and in conformity with Section 10.2 hereof.

9.3 Each member of the Committee shall at all times have access to all papers and other material received from any source. The Staff Director shall be responsible for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the Committee, and such registry shall be available to any member of the Committee.

9.4 Whenever the Select Committee makes classified material available to any other Committee of the Senate or to any member of the Senate not a member of the Committee, the Clerk of the Committee shall be notified. The Clerk of the Committee shall maintain a written record identifying the particular information transmitted and the Committee or members of the Senate receiving such information.

9.5 Access to classified information supplied to the Committee shall be limited to those Committee staff members with appropriate security clearances and a need-to-know, as determined by the Committee, and under the Committee's direction, the Staff Director and Minority Staff Director.

9.6 No member of the Committee or of the Committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the Committee in executive session including the name of any witness who appeared or was called to appear before the Committee in executive session, or the contents of any papers or other materials or other information received by the Committee except as authorized by the Committee in accordance with Section 8 of S. Res. 400 of the 9th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

9.7 Before the Committee makes any decision regarding the disposition of any testimony, papers, or other materials presented to it, the Committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the members of the Committee or the Committee staff. No members of the Committee or the Committee staff shall release any such testimony, papers, or other materials, or any information contained in such testimony, papers, or other materials to the public or to any person not a member of the Committee or of the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

RULE 10. STAFF

10.1 For the purpose of these rules, Committee staff means employees of the Committee, employees of the members of the Committee assigned to the Committee, consultants to the Committee, employees of other government agencies detailed to the Committee, or any other person engaged by contract or otherwise to perform services for or at the request of the committee.

10.2 The appointment of Committee staff shall be confirmed by a majority vote of the Committee. After confirmation, the Chairman shall certify Committee staff appointments to the Financial Clerk of the Senate in writing.

10.3 The Committee staff works for the Committee as a whole, under the general supervision of the Chairman and Vice Chairman of the Committee. Except as otherwise provided by the Committee, the duties of Committee staff shall be performed, and Committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, shall be administered under the direct supervision and control of the Staff Director. The Minority Counsel shall be kept fully informed regarding all matters and shall have access to all material in the files of the Committee.

10.4 The Committee staff shall assist the minority as fully as the majority in the expression of minority views, including assistance in the preparation and filing of additional, separate and minority views, to the end that all points of view may be fully considered by the Committee and the Senate.

10.5 The members of the Committee staff shall not discuss either the substance or procedure of the work of the Committee with any person not a member of the Committee

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or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, either during his tenure as a member of the Committee staff or at any time thereafter except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

10.8 No member of the Committee staff shall be employed by the Committee unless, and until such a member of the Committee staff agrees in writing, as a condition of employment, not to divulge any classified information which comes into his possession while he is a member of the Committee staff or any information which comes into his possession by virtue of his position as a member of the Committee staff to any person not a member of the Committee or the Committee staff, either during his tenure as a member of the Committee staff or at any time thereafter except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such manner as may be determined by the Senate.

10.7 No member of the Committee staff shall be employed by the Committee unless, and until such a member of the Committee staff agrees in writing, as a condition of employment, to notify the Committee or in the event of the Committee's termination the Senate of any request for his testimony, either during his tenure as a member of the Committee staff or at any time thereafter with respect to information which came into his possession by virtue of his position as a member of the Committee staff. Such information shall not be disclosed in response to such requests except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such manner as may be determined by the Senate.

10.8 The employment of any member of the Committee staff who fails to conform to any of these Rules shall be immediately terminated.

RULE 11: PREPARATION FOR COMMITTEE MEETINGS

11.1 Under direction of the Chairman and the Vice Chairman, designated Committee staff members shall brief members of the Committee at a time sufficiently prior to any Committee meeting to assist the Committee members in preparation for such meeting and to determine any matter which the Committee member might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the Committee that bear on matters to be considered at the meeting.

11.2 The Staff Director shall recommend to the Chairman and the Vice Chairman the testimony, papers, and other materials to be presented to the Committee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made pursuant to the Rules of the Senate and Rules of the Committee.

RULE 12: LEGISLATIVE CALENDAR

12.1 The Clerk of the Committee shall maintain a printed calendar for the information of each Committee member showing the measures introduced and referred to the Committee and the status of such measures; nominations referred to the Committee and their status; and such other matters as the Committee determines shall be included. The Calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the Committee.

12.2 Unless otherwise ordered, measures referred to the Committee shall be referred by the Clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

RULE 13: COMMITTEE TRAVEL

13.1 No member of the Committee or Committee staff shall travel abroad on Committee business unless specifically authorized by the Chairman and Vice Chairman. Requests for authorization of such travel shall state the purpose and extent of the trip. A full report shall be filed with the Committee when travel is completed.

13.2 When the Chairman and the Vice Chairman approve the foreign travel of a member of the Committee staff not accompanying a member of the Committee, all members of the Committee are to be advised, prior to the commencement of such travel, of its extent, nature and purpose. The report referred to in Rule 13.1 shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee pursuant to the Rules of the Committee.

13.3 No member of the Committee staff shall travel within this country on Committee business unless specifically authorized by the Staff Director as directed by the Committee.

RULE 14: CHANGES IN RULES

These Rules may be modified, amended, or repealed by the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

STATEMENT OF WILLIAM F. LENKER, CHAIRMAN OF THE NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION OF THE AMERICAN LEGION

Mr. THURMOND. Mr. President, the American Legion recently held its 58th National Convention in Seattle, Wash. Pursuant to the mandate of that convention, on September 14, William F. Lenker, chairman of the National Veterans Affairs and Rehabilitation Commission of the American Legion, presented to the Senate Committee on Veterans' Affairs the principal legislative concerns of that commission for the 95th Congress and for the fiscal year 1978. Mr. Lenker was introduced to the committee by Frank Hamilton, chairman of the National Legislative Commission of the Legion.

In his presentation, Mr. Lenker urged the committee to keep veterans programs abreast with inflation, to bring about meaningful pension reform, and to remain vigilant in preserving the integrity and independence of our current veterans programs and VA health care system.

Mr. Lenker's presentation is in keeping with the American Legion's honored tradition of advancing the interests of our Nation's veterans community.

Mr. President, in order to share Mr. Lenker's comments with my colleagues, I ask unanimous consent that they be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF WILLIAM F. LENKER, CHAIRMAN, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Mr. Chairman and Members of the Committee:

As Chairman of the National Veterans Affairs and Rehabilitation Commission of The American Legion, it is a pleasure and privilege for me to appear today before this distinguished Committee of the Congress, to place before you the principal legislative concerns of our Organization for the 95th Congress, and for Fiscal Year 1978.

On behalf of our National Commander, William J. Rogers, who is presently overseas, and of all Legionnaires, I wish to express the appreciation of The American Legion for this opportunity.

The American Legion has just completed its 58th National Convention, in Seattle, Washington, and the matters I shall place before you are the results of the deliberations of the Delegates to the Convention, in the field of veterans affairs.

May I say at the outset that The American Legion believes that it will become increasingly important for it to speak with a firm and insistent voice during the years immediately ahead, to insure that the nation, during this time of peace, does not forget its obligations to those who have answered the call to service in time of war.

The need for vigorous action in defense of veterans programs, we believe, is recognized among veterans. It is attested by the fact that at this time our organization has already enrolled a membership strength for 1976, in excess of 2,700,000, and is presently showing a national membership that is at a 20-year high. This is especially significant in light of the rising mortality curve among both veterans of World War I and World War II. We are pleased to note an increasingly heavy enrollment of Vietnam generation veterans. We believe this shows that a marked percentage of these younger veterans do indeed plan to take an active interest in the national welfare, and in veterans benefits, through their association with a veterans organization.

I shall now address myself to the legislative priorities of The American Legion, as we envision them for the coming year. I can tell you that these priorities are basically the same as those that concern us presently. We shall, of course, adjust them to particular needs that become apparent as time moves forward.

VA BUDGET FOR FISCAL YEAR 1978

First, a word about the Budget. The Veterans Administration will operate with outlays for Fiscal Year 1977 in the neighborhood of 20 billion dollars. We consider this amount to be barely adequate to meet the needs of veterans programs. The President has, of course, not yet sent forward his budget recommendations for the next Fiscal Year. When he does so, The American Legion will examine them closely, to ascertain their adequacy. We are concerned, as are all Americans, with continued inflationary pressures, and the impact these pressures will have on veterans programs. In addition to our concern for benefit programs, we are especially anxious that sufficient funds be available to continue the upgrading of the VA medical care program. The President has committed himself to the construction of eight new and replacement VA hospitals. We applaud this commitment. It is essential to the viability of the VA hospital system. We point out that attention must also be given to pay comparability, scales, and to the recruitment of top quality professionals into the VA system to guarantee second to none quality of medical care for veterans. The problems of the VA medical care program are complex and interrelated. Constant vigilance is necessary to properly maintain what is now, undoubtedly the finest health care delivery system in the world. The American Legion is determined that it shall remain so, and we firmly believe that is what the American people want for their veterans.

We await with great interest the release of the forthcoming study of the VA medical care program that was mandated by Public Law

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SUBCOMMITTEES
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SENATE SELECT COMMITTEE ON INTELLIGENCE

Daniel K. Inouye (D., Hawaii), Chairman

Subcommittee on Intelligence and the Rights of Americans

Birch Bayh (D., Ind.), Chairman - Tom Connaughton
William D. Hathaway (D., Maine) - Mike Epstein
Joseph Biden (D., Del.) - Mark Gitenstein
Robert Morgan (D., N. Car.) - Walt Ricks
Jake Garn (R., Utah), Vice-Chairman - Stan Taylor
Clifford Case (R., N.J.) - Ed Levine
Robert Stafford (R., Vt.) - Jean Evans

Subcommittee on Budget Authorization

William D. Hathaway (D., Maine) - Chairman - Chip Pickett
Mike Epstein
Walter Huddleston (D., Ky.) - Elliot Maxwell
Gary Hart (D., Colo.) - Rick Inderfurth
Barry Goldwater (R., Ariz.), Vice-Chairman - Sam Bouchard
Mark Hatfield (R., Oreg.) - Marty Gold

Other Staff - Charlie Kirbow, Danny Childs

Subcommittee on Collection, Production and Quality

Adlai E. Stevenson (D., Ill.), Chairman - Hal Ford
Robert Morgan (D., N. Car.) - Walt Ricks
Gary Hart (D., Colo.) - Rick Inderfurth
Clifford Case (R., N.J.), Vice-Chairman - Ed Levine
Barry Goldwater (R., Ariz.) - Sam Bouchard

Other Staff - Anne Karalekas, Ted Ralston

Ad Hoc Subcommittee on Charters and Guidelines

Walter Huddleston (D., Ky.), Chairman - Elliot Maxwell
Birch Bayh (D., Ind.) - Tom Connaughton
Adlai Stevenson (D., Ill.) - Hal Ford
Joseph Biden (D., Del.) - Mark Gitenstein
Mark Hatfield (R., Oreg.), Vice-Chairman - Marty Gold
Strom Thurmond (R., S. C.)
Jake Garn (R., Utah) - Stan Taylor

Other Staff - Martha Talley

Essential Features of S. Res. 400 *

I. Membership

- A. 15 members (plus the Senate majority and minority leaders who are ex-officio members)
- B. 8 designated seats from the following committees: Appropriations, Armed Services, Foreign Relations, and Judiciary
- C. 7 members appointed at-large, none of whom can be members of the four committees listed above (there are 39 Senators in this category)
- D. 8 years maximum continuous term
- E. For current membership, see Tab

II. Jurisdiction

- A. "All proposed legislation, messages, petitions, memorials, and other matters" relating to CIA, DCI, intelligence activities of all other departments and agencies of the Government, including but not limited to DOD, State Department, Department of Justice, and Department of the Treasury. "Legislation" includes authorization legislation.
- B. With the exception of legislation concerning CIA and the DCI, any legislation reported by the Select Committee shall be referred for 30 days to a standing committee if the matter relates to the jurisdiction of the standing committee and the Chairman of the standing committee so requests. The Select Committee can get a 30-day referral of legislation reported by standing committees under the same procedures.
- C. Section 3(c) provides "nothing in this resolution shall be construed as ... restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee."

*S. Res. 400 was passed by the Senate on 19 May 1976 by a vote of 72 to 22 (6 not voting).

III. Reports

- A. The Select Committee shall make periodic reports to the Senate.
- B. Directors of agencies with intelligence activities shall file annual unclassified reports with the Select Committee on their intelligence activities and the intelligence activities of hostile countries. The unclassified reports may be made publicly available.

IV. Staff

- A. Staff employees must agree in writing and under oath not to disclose Committee information during or after employment with the Committee.
- B. All staff members must have a security clearance.

V. Disclosure

- A. Select Committee may disclose publicly any information in its possession under specified procedures requiring notification of the President and a full Senate vote if the President objects.
- B. No classified information relating to lawful intelligence activities which the Select Committee has determined shall not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate, except in closed session.
- C. The Select Committee may under its established regulations make information available to other committees or the members (individual members of the Committee do not have this authority as they did in the Government Operations Committee version).

VI. Reporting Responsibility

It is the sense of the Senate that the head of each agency should:

- a. keep the Committee fully and currently informed on intelligence activities;
- b. furnish the Committee any information or document in its possession upon request;
- c. report immediately violations of Constitutional rights, law, Executive orders, Presidential directives, or departmental or agency rules.

VII. Authorization

The Senate cannot consider appropriations bills including funds for intelligence activities, unless such funds "have been previously authorized by a bill or joint resolution passed by the Senate." All intelligence activities are included in this authorization requirement. Under section 3 of the resolution such bills are the jurisdiction of the Select Committee on Intelligence Activities. A floor colloquy firmly established that this requirement was not to result in budget disclosure, if the Senate continues to believe budget secrecy is required.